



2006 Acts of Interest to Attorneys

114TH INDIANA GENERAL ASSEMBLY
SECOND REGULAR SESSION



Bronze bust of Governor Frank O'Bannon outside of the Senate Chamber

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Indiana Senate Democrat Caucus
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Indianapolis, IN 46204
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SECOND REGULAR SESSION
OF THE
114TH GENERAL ASSEMBLY

2006

**ACTS OF INTEREST
TO
ATTORNEYS**

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The Second Regular Session of the 114th General Assembly convened on November 22, 2005, being the day fixed by law. (**IC. 2-2.1-1-2**). The Honorable Rebecca S. Skillman, Lieutenant Governor and President of the Senate presided over the organization day activities.

On Monday, January 9, 2006, the Senate reconvened in compliance with **Article 4, Section 9** of the **Constitution of the State of Indiana**.

On Wednesday, January 11, 2006, a joint session of the Senate and the House of Representatives was convened to receive Governor Daniel's State of the State Address, in compliance with **Article 5, Section 13** of the **Constitution of the State of Indiana**. (The Governor's speech is reproduced later in the booklet.)

On Thursday, January 12, 2006 a joint session of the Senate and House of Representatives was convened to receive the report of Randall T. Shepard, Chief Justice of the Supreme Court of Indiana, in compliance with **Article 7, Section 3** of the **Constitution of the State of Indiana**, which requires the Chief Justice to prepare and "submit to the General Assembly regular reports on the condition of the courts and such other reports as may be requested." (The Chief Justice's report is reproduced later in this booklet.)

This session, the 150 state legislators filed a combined total of 823 bills; 393 Senate bills versus 430 House bills. When the Senate adjourned sine die at 11:59 p.m. and the House of Representatives adjourned sine die at 11:59 p.m. on Tuesday, March 14, 2006, a combined total of 193 bills attained enrolled act status, thus eligible for the Governor's signature or veto; 107 Senate Bills versus 86 House bills. Additionally, the General Assembly approved 1 joint resolution, which now must be considered by the 115th General Assembly, in order to proceed to ratification phase.

Governor Daniels did not exercise his veto authority.

If you wish to view the complete enrolled act go to www.in.gov/legislative/.

Should you wish to receive additional copies of this booklet, contact your State Senator.

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STATE OF JUDICIARY ADDRESS

2006
Second Regular Session 114th General Assembly

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prepared by
OFFICE OF CODE REVISION
LEGISLATIVE SERVICES AGENCY
Room 301, State House

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prepared by
OFFICE OF CODE REVISION
LEGISLATIVE SERVICES AGENCY
Room 301, State House

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LEGISLATIVE SUMMARIES

TITLE 3: ELECTIONS

DIGEST OF HEA 1011

Author(s): Richardson, Mahern

Sponsor(s): Lawson, Breaux

Citations Affected: IC 3-5; IC 3-7; IC 3-8; IC 3-9; IC 3-10; IC 3-11; IC 3-11.5; IC 3-11.7; IC 3-12; IC 3-13; IC 3-14; IC 9-24; IC 33-33; IC 33-35; noncode.

Miscellaneous election law matters. Makes the following changes: (1) Provides that the fee a person must pay to receive a complete compilation of voter registration information contained in the statewide voter registration list is an annual fee and includes the price for receiving updates of voter registration information throughout the year. (2) Provides that an election official may not receive an election law filing that is offered to be filed after a deadline for the filing unless election law provides for the filing after the deadline. (3) Provides that a vacancy in a legislative office last held by an individual who was not a member of a major political party shall be filled in a special election. (4) Conforms statutes to recognize the requirement in current law for electronic transmittal of data between license branches and the statewide voter registration list. (5) Provides for the election of the precinct committeemen of the Indiana Republican Party during presidential election years. (6) Authorizes the secretary of state to establish a pilot program of vote centers in up to three counties for the 2007 municipal elections and provides that a voter who resides in a vote center pilot county may cast the voter's ballot at a vote center without regard to the precinct in which the voter resides. Establishes the criteria and requirements for a county that applies to be a vote center pilot county. Specifies that the pilot program expires December 31, 2009. (7) Specifies certain deadlines concerning write-in candidates in a school board election held at the same time as a primary election. (8) Specifies that a voter registration becomes effective before the expiration of the current seven day voter registration pending period if the acknowledgment notice mailed to the voter is presented by the voter in person at the county voter registration office. (9) Removes a one day overlap in the campaign finance reporting schedule for statewide candidates. (10) Specifies that a candidate for nomination to a statewide office at a state party convention is required to file quarterly reports and not an additional "late convention" report (current law requires quarterly reports, but not a "post convention" report, by "late" convention candidates nominated by major parties; requires "late" candidates nominated by other parties to file both quarterly and a "post convention" report). (11) Permits the co-directors of the election division to set a deadline for a county to submit a proposed precinct establishment order if the county wishes the order to take effect before the next deadline for proposed precinct changes and requires the county executive to file a copy of an approved precinct establishment order with the county auditor. Makes other changes in the administrative process to approve precinct boundary changes. (12) Removes some of the changes to a ballot instruction for voters casting votes for candidates in local "at large" races. (13) Specifies procedures for making voting systems available at the polls for a voter who initially marks a ballot for a write-in candidate, but wants to vote for a candidate on the ballot instead. (14) Establishes additional standards for the challenging of voters. Provides that a voter who is challenged as ineligible to vote in the precinct must be

provided with a provisional ballot. Repeals a superseded provision relating to voting by a challenged voter. (15) Provides that a precinct establishment order issued after June 30, 2005, complies with certain polling place accessibility requirements if the order: (A) includes a statement that the precinct meets the requirements; or (B) states that before April 1, 2006, the county will designate a polling place for the precinct that meets the requirements. (16) Continues a requirement that each county have at least one accessible voting system for use at each polling place. (17) Restores an expired provision authorizing voting equipment reimbursements for certain counties. (18) Makes provisions concerning use of previously state certified voting equipment, declaration of candidacy filings, and school board election tie votes effective for the May 2006 primary. (19) Conforms voting system certification dates and certain recount deadlines with 2005 legislation. (20) Specifies how to count votes when a voter casts a straight party ticket vote and also votes for individual candidates. (21) Permits an absentee ballot sent by mail by an overseas voter to be counted if: (A) the absentee ballot envelope is postmarked not later than election day; and (B) the ballot is received by the deadline for counting provisional ballots. (22) Requires that the state committee of a political party whose nominee received at least 2% but less than 10% of the votes cast of secretary of state in the last election for that office fill a vacancy in a legislative office that was last held by a person who was elected or selected as a candidate of that political party. (23) Prohibits, for at least 20 years from the date of conviction, a person convicted of a felony or a Class A misdemeanor under IC 3-14-2 and the felony or misdemeanor relates to an election for a city, town, or school corporation office from continuing employment with, obtaining future employment with, contracting with, or being a subcontractor under a contract with a city, town, school corporation, or the agency of a city, town, or school corporation. Authorizes the attorney general to request an injunction against a person or governmental entity that violates this provision. Permits the attorney general to seek a civil penalty of not more than \$1,000 against a person who violates this provision. (24) Removes or repeals expired, superseded, or obsolete provisions of election law. Corrects erroneous cross-references. Makes technical changes. Updates election schedules. **Effective:** Upon passage; January 1, 2006 (retroactive); July 1, 2006; January 1, 2007.

TITLE 4: STATE ADMINISTRATION

DIGEST OF HEA 1123

Author(s): Budak, L. Lawson

Sponsor(s): Becker, Lawson

Citations Affected: IC 4-23; IC 33-37; noncode.

Sexual assault standards and certification board. Creates the sexual assault standards and certification board (board) to certify sexual assault victim advocates. Requires the board to convene not later than October 1, 2006. Transfers control of the sexual assault victims account from the state department of health to the board. Repeals the sexual assault victims assistance fund and replaces it with the sexual assault victims account. **Effective:** Upon passage.

DIGEST OF HEA 1261

Author(s): Burton, Koch

Sponsor(s): Lubbers, Rogers

Citations Affected: IC 4-4; IC 4-6; IC 4-12; IC 5-10; IC 5-20; IC 6-1.1; IC 6-2.5; IC 6-3.1; IC 8-1; IC 8-9.5; IC 12-7; IC 12-8; IC 12-13; IC 12-20; IC 23-2; IC 24-4.5; IC 24-9; IC 34-30; IC 36-1; noncode.

Housing and community development authority. Changes references to the Indiana housing finance authority to the Indiana housing and community development authority. Specifies additional powers of the authority. Renames the low income housing trust fund the affordable housing and community development fund. Expands the uses of the fund. Changes the membership and name of the advisory committee. Repeals the law concerning the Indiana affordable housing fund. Limits the neighborhood assistance tax credit to persons who contribute to neighborhood organizations that provide neighborhood assistance. (Current law permits tax credits for persons who engage in providing assistance.) Changes many definitions in the neighborhood assistance tax credit to specifically include services provided to economically disadvantaged households that may be located outside economically disadvantaged areas. Moves the following programs from the family and social services administration to the lieutenant governor: (1) The housing assistance act of 1937. (2) Community services block grant. (3) Home energy assistance programs; (4) Weatherization assistance. (5) Food and nutrition programs. (6) Migrant and farm worker programs. (7) Emergency shelter grant programs. (8) Shelter plus care programs. **Effective:** July 1, 2006.

DIGEST OF SEA 57

Author(s): Harrison

Sponsor(s): Buell, Kromkowski

Citations Affected: IC 4-1; IC 36-8; noncode.

Pension fund administrative issues. Authorizes a state agency to release an individual's Social Security number for the purpose of administering a state retirement fund or deferred compensation plan. Establishes a review process for an impairment awarded because a local pension board did not act in a timely manner. Extends the pilot program for the legislators' defined contribution plan until July 1, 2007. **Effective:** July 1, 2006.

DIGEST OF SEA 86

Author(s): Jackman, Nugent

Sponsor(s): Messer, Gutwein

Citations Affected: IC 4-31.

Medication of horses in pari-mutuel events. Eliminates statutory provisions permitting race horses to race while being treated with certain medications. Requires the horse racing commission to consider model rules approved by the Association of Racing Commissioners International before adopting rules permitting the use of any medication. Repeals the definition of "test level". Repeals a provision concerning restrictions on race horses that are known to have bled from their nostrils. **Effective:** July 1, 2006.

DIGEST OF SEA 100

Author(s): Jackman, Hershman, Lewis

Sponsor(s): Whetstone, Pelath

Citations Affected: IC 4-21.5; IC 4-22; IC 4-32.2; IC 4-33; IC 5-2; IC 6-3; IC 6-8.1; IC 12-13; IC 33-26; IC 35-45; noncode.

Charity gaming. Transfers the powers and duties of administering charity gaming from the department of state revenue to the gaming commission. Allows a candidate's committee to conduct a raffle event. Removes a provision restricting a qualified organization's charity gaming events to the county of its home office. Increases the maximum initial license fee from \$25 to \$50. Increases license renewal fees. Authorizes the commission to issue annual raffle licenses. Provides that an annual raffle license authorizes not more than five raffle events in a calendar year. Grants the gaming commission the authority to approve additional gambling events. Defines the term "member" for purposes of the charity gaming laws. Establishes a procedure under which a qualified organization that conducts only one charity gaming event in a calendar year may submit an application for a license for the event without including the Social Security numbers of the workers for the proposed event. Provides that a qualified organization using the procedure may not require an individual who wishes to participate in the allowable event as a worker to submit the individual's Social Security number to the qualified organization. Allows the gaming commission to approve: (1) a qualified organizations's utilization of a nonmember as a worker if the nonmember is a member of another qualified organization; and (2) the sharing of receipts with the qualified organization of which the worker is a member. Makes an appropriation. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 247

Author(s): Wyss, Craycraft, Delph, Riegsecker

Sponsor(s): Ruppel, Bischoff

Citations Affected: IC 4-13.6; IC 5-2; IC 5-14; IC 10-15; IC 10-19; IC 11-11; IC 16-18; IC 16-31; IC 22-11; IC 22-12; IC 22-13; IC 22-14; IC 22-15; IC 34-30; IC 36-8; noncode.

Various homeland security matters. Adds the department of homeland security's building law compliance officer to the certification board that administers the provisions concerning qualifications for state public works projects. Establishes the Indiana intelligence fusion center (fusion center) to collect, maintain, and analyze intelligence information and other information relating to criminal activity or terrorism. Designates the counterterrorism and security council (CTASC) and the fusion center as criminal justice agencies. Allows CTASC to hold executive sessions and exempts certain records of CTASC and fusion center from the open records law. Combines five funds managed by the department of homeland security into the homeland security fund. Provides that money in the homeland security fund reverts to the fire and building services fund if the homeland security foundation is terminated. Modifies the membership of the board of firefighting personnel standards and education. Allows a volunteer fire department to declare its personnel records confidential. Permits the department of correction to read mail to and from offenders unless the mail is privileged. Prohibits the department of correction from disclosing the contents of this mail unless certain conditions are met.

Repeals the specific rulemaking procedures of the fire prevention and building safety commission. Makes conforming amendments and technical corrections. **Effective:** July 1, 2006.

DIGEST OF SEA 359

Author(s): Hershman

Sponsor(s): Messer

Citations Affected: IC 4-13.6-3-3.

Procurement and state public works. Proposed conference committee report for ESB 359. Provides that advance payment may be made for equipment or software acquired by a state agency, regardless of cost, with the prior approval of the budget agency under certain circumstances. Provides discretion to determine when retainage on a state public works contract should be placed in an escrow account. Provides that certain bid, performance, and payment bond and retainage requirements do not apply to railroad projects of a commuter transportation district. Requires contractors and subcontractors on state public works projects to implement employee drug testing programs. Establishes a negotiated bidding process for procurement of supplies by the executive branch of state government under which the purchasing agency may conduct discussions with bidders before awarding a contract under an invitation for bids to obtain a best and final offer. Requires a purchasing agency to maintain a bid register documenting the purchasing agency's negotiations with bidders. Makes technical changes to the statute authorizing reverse auctions. Eliminates the requirement for a purchasing agent in the executive branch to make a written determination as a condition to award a contract using an RFP. Permits a purchasing agency in the executive branch to use information obtained from an offeror's proposal in discussions with other offerors under certain circumstances. Provides that an information technology, life sciences, transportation, or logistics business that employs more than 100 persons or that has annual sales of more than \$5,000,000 is not eligible for a small business preference. Repeals a statute that prohibits the use of a reverse auction to purchase certain construction equipment. Makes technical changes. **Effective:** July 1, 2006.

DIGEST OF SEA 379

Author(s): Ford

Sponsor(s): Heim

Citations Affected: IC 4-5; IC 4-22; IC 12-10.5; IC 13-14; IC 14-10; IC 22-8; IC 22-13.

Publication of administrative rules. Provides that on July 1, 2006, the duties of the secretary of state with respect to the promulgation and preservation of paper copies of administrative rules are transferred to the publisher of the Indiana Register. (Current law provides that after June 30, 2006, the Indiana Register and Indiana Administrative Code will be published only in an electronic format.) Specifies that documents prepared by state agencies for publication in the Indiana Register must be submitted in the electronic format specified by the publisher. Specifies that the small business regulatory coordinator program applies to environmental rule making. Removes obsolete language concerning the creation of fiscal impact statements for certain proposed administrative rules. Repeals obsolete references concerning the printing of the Indiana Administrative Code. **Effective:** July 1, 2006.

TITLE 5: STATE AND LOCAL ADMINISTRATION

DIGEST OF HEA 1227

Author(s): Budak, Ayers
Sponsor(s): Nugent, Becker
Citations Affected: IC 4-15; IC 5-10.

Retired state employees. Provides that the state employees appeals commission must have a separate line item appropriation in the state budget. Requires the state to provide a group health insurance program to retired state employees who were employed as teachers at certain state institutions and who participated in a state retirement fund: (1) for 15 years; or (2) ten years immediately preceding retirement. Changes the requirements for a retired state employee to participate in a group health insurance plan by: (1) reducing the number of years of creditable employment before the employee's retirement date from 20 to 15; and (2) eliminating the requirement that the employee participate in a retirement plan at least 15 years before the employee's retirement date. **Effective:** July 1, 2006.

DIGEST OF HEA 1234

Author(s): Ruppel, Bischoff
Sponsor(s): Dillon, Craycraft
Citations Affected: IC 5-10.

Public safety officer death benefit. Extends the special death benefit of \$150,000 for a public safety officer who dies in the line of duty to a special deputy who is employed by a political subdivision and to certain airport police officers and firefighters. **Effective:** July 1, 2006.

DIGEST OF HEA 1249

Author(s): Messer, Hinkle
Sponsor(s): Kruse, Rogers
Citations Affected: IC 5-2.

County drug free community fund. Provides that the criminal justice institute may deobligate funds to a local government entity if the entity fails to comply with the fund requirements. Provides a process to reinstate the funds. Provides that a local coordinating council (council) shall be appointed and approved by the commission for a drug free Indiana (commission). Requires a council to submit a comprehensive drug free communities plan (plan) for the approval of the commission before a county fiscal body appropriates county drug free community funds. Requires a council to determine the amount of funds that a county fiscal body shall appropriate to implement the objectives set forth in the plan. Provides that if a plan is not approved by the commission, the county fiscal body may not appropriate funds as set forth in the plan. Provides that if a county legislative body allocates funds without the approval of the plan by the commission, the commission may: (1) appoint a new council; (2) freeze funds allocated by the county legislative body; or (3) reevaluate the plan. **Effective:** July 1, 2006.

DIGEST OF HEA 1397

Author(s): Whetstone, VanHaaften

Sponsor(s): Lawson

Citations Affected: IC 4-2; IC 4-13; noncode.

State ethics standards. Changes the definition of "business relationship" in the executive branch ethics statute to include the relationship a lobbyist has with an executive branch agency. Defines "advisory body". Gives the state ethics commission (commission) certain jurisdiction over lobbyists. Provides that the inspector general may seek an advisory opinion from the commission. Changes the evidentiary standard applicable to commission findings from "competent and substantial" to a preponderance of the evidence. Shifts certain responsibilities from the commission to the inspector general. Authorizes a member of the commission to participate in commission meetings from a remote location under certain circumstances. Requires certain persons who have final purchasing authority for an agency to file an annual financial disclosure statement. Authorizes the commission to require revocation of licenses, permits, or registrations issued by an agency for violations of the ethics statutes or rules. Provides that members of advisory bodies are not subject to the one year prohibition on certain employment after leaving the advisory body. Provides that certain special state employees are not subject to the one year prohibition on certain employment after leaving service as a special state employee if the service ends before January 1, 2007. Requires registration of executive branch lobbyists with the department of administration. Authorizes the department to adopt rules to establish registration fees and to impose civil penalties and revoke registrations if an executive branch lobbyist violates the registration requirements. Imposes initial registration fees. Makes other technical changes. Repeals the current statute authorizing registration of executive branch lobbyists. **Effective:** Upon passage.

DIGEST OF SEA 56

Author(s): Harrison, Kenley

Sponsor(s): Buell, Kromkowski

Citations Affected: IC 5-10.3.

Pension relief fund distributions. Changes the expiration date for the additional distributions from the pension relief fund that ensure that at least 50% of the pension liability of each unit of local government is paid from the pension relief fund from January 1, 2008, to January 1, 2009. **Effective:** July 1, 2006.

DIGEST OF SEA 58

Author(s): Harrison

Sponsor(s): Buell, Kromkowski

Citations Affected: IC 5-10.2; IC 21-6.1.

Teachers' retirement fund administrative issues. Specifies the type of disability benefit that a member of the state teachers' retirement fund (TRF) must be eligible to receive in order for the member's surviving spouse to qualify for a survivors' benefit. Allows a TRF member who serves in an elected position and elects, while holding the elected position, to begin receiving the retirement benefits to which the member is entitled by age and service to choose whether to retire from TRF or the public employees' retirement fund. Restricts the award of military service credit by TRF to service that is

not used by the member under the terms of a military or another governmental retirement plan. **Effective:** July 1, 2006.

DIGEST OF SEA 205

Author(s): Drozda
Sponsor(s): Koch, Heim
Citations Affected: IC 5-14.

Disclosure of electronic mail account addresses. Provides that a public agency: (1) is not required to create or provide lists of electronic mail account addresses unless required by statute; (2) is not required to allow a person to inspect and make memoranda abstracts from a list of electronic mail account addresses; (3) may not disclose certain lists (including electronic mail account addresses) to commercial entities for commercial purposes; and (4) may not disclose certain lists (including electronic mail account addresses) to any individual or entity for political purposes. Provides that if a prohibited disclosure nevertheless occurs, a commercial entity may not use the disclosed information for commercial purposes and any individual or entity may not use the disclosed information for political purposes. Defines political purposes. **Effective:** Upon passage.

DIGEST OF SEA 206

Author(s): Drozda, Becker, Gard, Rogers, Tallian
Sponsor(s): Buell, Kromkowski
Citations Affected: IC 5-10; IC 36-8.

Public safety disability pensions. Creates a presumption that a police officer, firefighter, or emergency medical services provider who incurs a disability from certain cancers or a heart or lung disease while actively employed has incurred a disability in the line of duty. Excludes the use of the presumption by a police officer, firefighter, or emergency medical services provider who has used tobacco products in any form in the last five years. Allows a meeting or hearing held to rebut the presumption to be held as an executive session. Provides that a line of duty disability benefit retains the status of a disability benefit for the life of the disabled member. **Effective:** July 1, 2006.

DIGEST OF SEA 300

Author(s): Long, Bray, Broden, Lanane, Howard
Sponsor(s): Foley
Citations Affected: IC 5-2; IC 16-18; IC 16-21; IC 35-41.

Victim's compensation fund. Defines "bodily injury" and specifies that the term includes emotional trauma only if the trauma stems directly from the impairment of a physical condition, a visible injury, or physical pain. Provides that compensation to a victim of a violent crime may not be paid to a person who profited from the criminal act or who was intoxicated at the time of the crime and contributed to the commission of an unrelated felony, unless the person was the victim of a sex crime or a crime of domestic or family violence. Permits only one claimant per victim to receive benefits. Authorizes the division of victim services to award benefits for an injury resulting from criminal use of a motor vehicle only after an information or indictment is filed, and does not permit an award in any case until records are available and the criminal investigation is concluded.

Provides that certain information relating to the victim of a crime is confidential. Makes the reimbursement rate for medical services provided as the result of bodily injury equal to the reimbursement rate for services under the Indiana comprehensive health insurance association (ICHIA), and clarifies that the ICHIA rate does not apply to the reimbursement of forensic and evidence gathering services provided to the victim of a sex crime. Defines "forensic medical exams" and "additional forensic services" and replaces references to "emergency services," "hospital emergency services," and "emergency hospital services" with "forensic medical exams" and "additional forensic services". Permits reimbursement for burial expenses up to \$4,000 and for mental health care up to \$2,000. Requires documentation of certain expenses before a benefit may be awarded. Prohibits an attorney who represents a crime victim at a hearing held by the division from charging a contingency fee of more than 10% or being paid directly by the division. Permits an attorney who obtains a civil judgment on which the state has a lien for the provision of victim services to receive attorney's fees of not more than 15% of the amount received by the state. Makes other changes and conforming amendments. Repeals an obsolete provision relating to attorney's fees. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 340

Author(s): Wyss, Long

Sponsor(s): Borrer, Pflum

Citations Affected: IC 4-15-1.8-7; IC 5-10-8-7; IC 5-10.3-6-8.9.

Salary and PERF protection for state employees. Conference committee report for ESB 340. Provides that the state's salary and wage schedules must provide that an appointing authority is not required to reduce the salary of an employee who is demoted, unless the appointing authority determines that the salary reduction is warranted for disciplinary reasons or other good cause. Establishes a process to withdraw state employees from the public employees' retirement fund (fund) and to allow certain state employees to retire when the employees' particular departmental, occupational, or other classifications are terminated from state employment as a result of: (1) a lease or other transfer of state property to a nongovernmental entity; or (2) a contractual arrangement with a nongovernmental entity to perform certain state functions. Establishes the funding sources for the amounts that the state is required to contribute to PERF for the purchase of up to 24 months of creditable service needed by a terminated employee who elects normal or early retirement. Authorizes the state to purchase and maintain an insurance policy that provides coverage that supplements coverage provided under a United States military health care plan. **Effective:** Upon passage; December 31, 2005 (retroactive); July 1, 2006.

TITLE 6: TAXATION

DIGEST OF HEA 1001

Author(s): Espich

Sponsor(s): Kenley, Hume

Citations Affected: IC 6; IC 15-5; IC 20; IC 27-5.1-2-8; IC 36-6-5-3

Various tax matters. Increases the homestead credit for one year in 2006 to 28% and the homestead standard deduction for one year in 2007 to \$45,000. Provides an additional distribution in 2006 to reimburse counties that send out revised tax bills to implement the additional homestead credit. Permits homestead credits to be certified using the best information available at the time the certification is made. Beginning in 2008, requires counties to use a uniform format for property tax statements that includes additional taxpayer information. Beginning in August 2009, requires a county to mail a notice concerning budget proceedings and proposed tax rates, tax levies, and budgets to each taxpayer and permits a taxpayer to appeal the taxpayer's assessment within 45 days after getting the notice. Limits use of students and teachers in promoting a bond issue; prohibits attorneys, architects, construction managers, and financial advisors from contributing money to promote a bond issue; and provides standards for accepting signatures on a remonstrance petition. Extends the time in 2006 in which a county fiscal body may adopt an ordinance to provide taxpayers with a cap on residential property taxes equal to 2% of the assessed value of the residential property. Beginning in 2007 for Lake County and 2008 for all other counties, establishes a 2% cap without a county fiscal body ordinance. Extends the 2% cap to all property in 2010. Imposes a utility use tax in transactions on which a utility receipts tax has not been imposed. Indicates that property constructed outside Indiana for Indiana use is subject to use tax. Exempts home energy assistance from gross receipts tax (sales tax) for one year. Prohibits the assignment of sales tax remittance deductions to nonaffiliated companies. Requires certain intangibles expenses and directly related intangible interest expense deducted for federal income tax purposes to be added back to a corporation's taxable income for state adjusted gross income tax purposes. Provides after a phase-in period that corporate business income is apportioned to Indiana for adjusted gross income tax purposes using a single sales factor. Indicates how the freight on board location of a sale affects the apportionment formula. Requires a corporation that files combined income tax returns to petition the department of state revenue for permission to discontinue filing combined returns. Permits an additional county adjusted gross income tax rate in Jasper County and an additional county option income tax rate in Scott county to construct and maintain criminal justice facilities. Extends the time in 2006 during which an additional economic development income tax rate may be imposed to provide property tax relief to mitigate the effects of the elimination of the property tax on inventory. Permits a county to provide tax relief to other residential property in addition to homesteads. Replaces the requirement that a dog tax be imposed in each county with a county option dog tax. Makes a technical correction related to HEA 1134. Increases the calendar year cap on tuition support distributions for the calendar year ending December 31, 2006, by \$48.2 million or the amount needed to avoid reducing distributions in the second six months of the calendar year. Changes the school funding formula to eliminate the effects of annual property tax assessed value adjustments. Provides that a farm mutual insurance company may elect taxation under the gross premium tax instead of the adjusted gross income tax. Directs the office of

management and budget to develop a proposal for presentation to the state budget committee by November 1, 2006, concerning an actuarially funded retirement health program for state employees. Makes an appropriation for the additional homestead credit amount. Appropriates \$20.1 million dollars or the amount needed for state tuition support distributions in the state fiscal year ending June 30, 2006. Makes other related changes. **Effective:** Upon passage; July 1, 2005 (retroactive); January 1, 2006 (retroactive); July 1, 2006; January 1, 2007.

DIGEST OF HEA 1025

Author(s): J. Smith
Sponsor(s): Drozda, Alting
Citations Affected: IC 6-9.

Innkeeper's taxes. Provides that the maximum rate of the Howard County innkeeper's tax is 5% until December 31, 2013, and decreases to 4% on January 1, 2014 (in current law the transition date is June 30, 2007). Extends the period of time from December 2006 to December 2012 that a share of Tippecanoe County innkeeper's tax revenue must be distributed as a grant to a nonprofit corporation that leases land in Prophetstown state park for the nonprofit corporation's use in noncapital projects in Prophetstown state park. **Effective:** July 1, 2006.

DIGEST OF HEA 1124

Author(s): Buck, J. Smith
Sponsor(s): Drozda, Hershman
Citations Affected: IC 6-1.1.

Rainy day fund loans to political subdivisions. Authorizes a loan from the state rainy day fund to a taxing unit whose property tax revenue collections are affected by the bankruptcy of a taxpayer that manufactures microelectronics as part of its business. Requires the state board of finance to determine the terms of the loan subject to certain restrictions. Specifies the permitted use of the loan proceeds and the manner of repayment of the loan. Limits the total amount of the loans to \$13,000,000. **Effective:** Upon passage.

DIGEST OF HEA 1214

Author(s): Davis, Stillwell
Sponsor(s): Long, Lanane
Citations Affected: IC 6-2.5-7; IC 6-6; IC 6-8.1; IC 8-2.1; IC 9-20-18-14.5.

Motor carrier enforcement. Provides that the prepayment rate used in determining prepayment amounts of sales tax on certain wholesale sales of gasoline may not exceed 125% of the prepayment rate in effect on the day before the prepayment rate is redetermined by the department of state revenue. Requires certain reports and returns filed with the department of state revenue (department) concerning gasoline tax and special fuel tax to be filed in an electronic format. Requires a motor carrier to file a claim for a proportional use credit for a calendar quarter on or before the due date of the motor carrier's quarterly motor fuel tax return. Allows the department to deny the issuance of or to suspend or revoke certain registrations, permits, or certificates of authority if the owner or operator of a commercial motor vehicle does not file all tax returns or reports or

pay all taxes, penalties, and interest for a listed tax. Provides civil penalties for a motor carrier operating without required credentials or operating with altered credentials. Specifies conditions under which the department or the state police department may impound a motor vehicle of a motor carrier that is not authorized to transport passengers for hire. Increases the application fees paid to the department's motor carrier services division. Specifies that certain registration requirements do not apply to a person exclusively engaged in the private transportation of nonhazardous property. Provides that the department may not register or title a motor carrier if the motor carrier fails to comply with certain federal regulations or the motor carrier's authority to operate has been terminated or denied by a federal agency. Specifies certain penalties for motor carriers that violate the permitting provisions for oversize and overweight vehicles. **Effective:** July 1, 2006.

DIGEST OF HEA 1259

Author(s): Koch, Dembo

Sponsor(s): Steele, Hume

Citations Affected: IC 4-3-21-2; IC 4-3-21-4; IC 6-2.5-4-5; IC 6-3-2-1.5; IC 6-3.1-11.6-9; IC 13-11-2-129.6; IC 34-6-2-82.6; IC 36-7-34-4.

Military bases. Proposed conference committee report for EHB 1259. Adds additional members to the military base planning council (council). Extends the responsibilities of the council to include Camp Atterbury and the Muscatatuck Urban Training Center (MUTC). Requires the department of environmental management to give priority to certain permit applications concerning Camp Atterbury and the MUTC. Grants civil immunity for noise pollution and telecommunications interference to Camp Atterbury and the MUTC. Provides that a county in which the Crane military base is located is a qualified military base enhancement area. **Effective:** July 1, 2006.

DIGEST OF HEA 1327

Author(s): Espich, Cochran

Sponsor(s): Kenley, Simpson

Citations Affected: IC 5-1-1-1; IC 6; IC 21-2-21-1.8.

Taxation and government finance. Prohibits the assignment of sales tax remittance deductions to nonaffiliated companies. Provides that for taxable years beginning after December 31, 2005, references in Indiana law to the Internal Revenue Code and related regulations refer to the law and regulations in effect on January 1, 2006. Specifies that the category of children for which an additional \$1,500 state income tax deduction may be claimed is to be determined under an Internal Revenue Code definition as it was in effect on January 1, 2004. Extends to June 30, 2011, the time during which Jackson County may impose an additional county adjusted gross income tax rate of 0.1% for the operation of a jail and juvenile detention center. Permits an additional county option income tax rate in Scott County to construct and maintain criminal justice facilities. Changes the termination date for the Nashville food and beverage tax from January 1, 2007, to January 1, 2012. Extends the deadline for initiating projects under the Martinsville food and beverage tax from December 31, 2010, to December 31, 2015. Allows a school corporation to petition the DLGF requesting approval to incur bond indebtedness to implement solutions to contractual retirement or severance liability.

Effective: Upon passage; January 1, 2005 (retroactive); January 1, 2006 (retroactive); March 15, 2006 (retroactive); July 1, 2006; July 1, 2007.

DIGEST OF HEA 1368

Author(s): Neese, Woodruff

Sponsor(s): Meeks, Hume

Citations Affected: IC 5-10.2; noncode.

PERF and TRF cost of living adjustments. Provides a 2% cost of living adjustment for all members, survivors, and beneficiaries of the public employees' retirement fund (PERF) who were retired or disabled before January 1, 2006, beginning in 2007. Provides cost of living adjustments for certain members, survivors, and beneficiaries of the teachers' retirement fund (TRF) beginning in 2007. Provides for a thirteenth check in 2006 for PERF members, survivors, and beneficiaries based on the complete years of service credited to a member at retirement. **Effective:** July 1, 2006.

DIGEST OF HEA 1380

Author(s): J. Smith, Walorski

Sponsor(s): Ford, Long

Citations Affected: IC 2-5; IC 4-3; IC 6-2.5; IC 6-3.1; IC 6-3.5; IC 27-5.1; noncode.

Various economic development matters. Establishes a process by which the small business coordinator may submit comments about the impact of a proposed bill to the office of management and budget (OMB). Authorizes the OMB to review the comments. Requires, after review by the OMB, the comments to be posted to the general assembly's web site by the legislative services agency. Provides that certain transactions occurring after December 31, 2006, and before January 1, 2009, that involve tangible personal property are exempt from sales tax if the person acquiring the property acquires it for the person's direct use in the direct production of a motion picture. Revises the wage standards for eligibility for an EDGE credit for retaining jobs. Provides that an applicant for an EDGE credit for the retention of jobs must employ at least 35 persons (instead of 75 as required by current law). Increases the \$5,000,000 per year cap on the amount of EDGE credits that may be granted to retain existing jobs during each state fiscal year to \$10,000,000 per year. Applies the cap to state fiscal year 2006 and each state fiscal year thereafter (current law imposes a cap only through state fiscal year 2007). Removes the January 1, 2008, deadline for making investments in machinery, equipment, or special purpose buildings used to make motion pictures or audio productions that are eligible for the Hoosier Business Investment Tax Credit (HBITC). Extends the deadline by which a qualified investment must be made in order to be eligible for the HBITC until January 1, 2012. Reduces from \$500,000,000 to \$100,000,000 the amount of annual worldwide revenue that a business must have in order to qualify for the headquarters relocation tax credit. Requires a business to employ at least 75 employees in Indiana to receive the headquarters relocation tax credit. Provides that the credit is available for taxable years beginning after December 31, 2005 (instead of December 31, 2006). Authorizes counties, cities, and towns that receive county economic development income taxes (CEDIT) to: (1) establish local venture capital funds; and (2) establish regional venture capital funds by pooling CEDIT revenues and grant proceeds. Provides that a regional venture capital

fund shall be administered by a governing board. Authorizes the governing board to make grants or loans from the fund to public or private entities for economic development purposes. Provides that a farm mutual insurance company may elect taxation under the gross premium tax. **Effective:** January 1, 2006 (retroactive); April 1, 2006; July 1, 2006; January 1, 2007.

DIGEST OF SEA 106

Author(s): M.Young, Riegsecker, Broden, Simpson

Sponsor(s): Walorski, Davis, McClain, Fry

Citations Affected: IC 6-2.5-5-39.

State gross retail tax. Provides that a cargo trailer or recreational vehicle (RV) purchased by a resident of another state or country is exempt from Indiana sales tax if it is to be registered in a state or country that provides a sales tax exemption for cargo trailers or RVs purchased by Indiana residents for registration in Indiana. Provides that a cargo trailer or RV purchased by a nonresident is subject to Indiana sales tax if it is to be registered in a state or country that does not provide a sales tax exemption for cargo trailers or RVs purchased by Indiana residents for registration in Indiana. Deletes the requirement that a nonresident purchaser provide, and the seller keep on file, a copy of the purchaser's registration or title from outside Indiana. Specifies that the form for the affidavit submitted by the purchaser must include an affirmation by the purchaser under the penalties for perjury that the information contained in the affidavit is true. **Effective:** July 1, 2006.

DIGEST OF SEA 148

Author(s): Riegsecker, Heinold

Sponsor(s): Heim, Ulmer

Citations Affected: IC 6-3.5-1.1.

Use of CAGIT revenue by certain counties. Provides that county adjusted gross income tax (CAGIT) revenue in Elkhart County and Marshall County may also be used to operate and maintain jail facilities, juvenile court, detention, and probation facilities, other criminal justice facilities, and related buildings and parking facilities (in addition to being used for the financing, construction, acquisition, renovation, and equipment of those facilities under existing law). Provides that Marshall County may not impose an additional CAGIT rate for jail maintenance and operations after the bonds issued to construct the jail are paid off. **Effective:** Upon passage.

DIGEST OF SEA 258

Author(s): Kenley, Hume

Sponsor(s): Espich, Leonard

Citations Affected: IC 6-2.5.

Streamlined sales tax provisions. Makes the following changes in the gross retail and use tax law: (1) Defines "bundled transaction" and "direct mail". (2) Excludes tobacco products from the definition of "food and food ingredients". (3) Provides that a person is a retail merchant making a retail transaction when the person sells tangible personal property as part of a bundled transaction. (4) Exempts a person from filing a monthly state gross retail and use tax return whenever the person: (A) voluntarily registers as a

seller under the streamlined sales and use tax agreement; (B) is not a model 1, model 2, or model 3 seller; and (C) has a tax collection liability for the preceding calendar year that did not exceed \$1,000. (5) Provides that whenever a florist takes a floral order and transmits the order to another florist for delivery the transaction is sourced to the location where the florist originally took the order. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 260

Author(s): Kenley, Simpson, Hume

Sponsor(s): Espich, Welsh

Citations Affected: IC 6-1.1; IC 6-1.5-4-2; IC 6-1.5-5; IC 8-1.5-5-32; IC 8-22-3.5-11; IC 16-22-14; IC 20-44-3-2; IC 20-46-6-5; IC 33-26-7-1; IC 36-7.

Taxation. If an assessing official discovers an overreported personal property assessment, requires the official to correct the assessment. Permits a personal property taxpayer to make an exemption claim up to 30 days after the return due date. Provides that the investment deduction for personal property does not apply to certain personal property. Allows a county to impose a separate property tax levy that is subject to the county's levy limits to compensate a county hospital for providing emergency medical services. Provides that information regarding certain property tax benefits available to owners of single family residential property must be included in the instructions for completing the sales disclosure form used in transfers of real property interests. Exempts delinquent tax collections from deposit in the excess levy fund. Reduces the amount of assessed value growth that qualifies a civil taxing unit for an excessive levy appeal. Authorizes an excessive levy appeal for certain townships to pay the costs of providing emergency medical services by paramedics. Permits a county auditor to establish a special nonreverting fund to receive additional property taxes attributable to a contract for the discovery of property that has been undervalued or omitted from assessment. Changes responsibilities for distribution of certain notices of decision by the Indiana board of tax review (IBTR). Adjusts the procedure for a public utility company to appeal the distributable property assessment of the department of local government finance (DLGF) to the IBTR. Changes the annual deadline for filing for various property tax benefits for individuals from May 10 to June 10. States requirements for maintaining a class action suit against the DLGF. Permits property tax rates to be calculated using a reduced assessed value for property to reflect the effects of pending property tax appeals. Allows the county auditor to amend assessed valuation information provided to the DLGF and political subdivisions that is used to set property tax rates. Allows a taxpayer that initiated an appeal to the DLGF of a political subdivision's budget, rate, and levy to seek judicial review if the DLGF fails to act on the appeal in a timely manner. Revises the formula for determining a civil taxing unit's maximum permissible levy to permit banking of unused levy capacity with restriction on recapture. Requires the DLGF to recommend amendments to levy banking and recapture provisions. Allows a designee of the commissioner of the DLGF to attest copies of certain documents. Provides that the DLGF rules for assessment of real property are not required to include instructions for determining depreciation or reproduction cost. Specifies when returns, other documents, and property tax payments are considered to be received for purposes of property tax statutes containing filing or payment deadlines. For depreciable personal property eligible for tax abatement and subject to the 30% minimum valuation limitation, specifies

the amount of assessed value used to compute the deduction. Provides that in an appeal from a decision of a local assessing official or a property tax assessment board of appeals, the IBTR may subpoena witnesses and documents. (Current law gives the IBTR this power with respect to appeals from DLGF decisions.) Provides that if the IBTR fails to render a decision in an appeal from an action of the DLGF, the entity that initiated the appeal has the option of waiting for a IBTR decision or requesting judicial review. Specifies when a lot or tract held for sale in the ordinary course of trade or business may be reassessed for property tax purposes. Provides that money in a property tax reassessment fund may not be transferred to any other fund. Provides that certain equipment installed in an economic revitalization area or a maritime opportunity district after being used in Indiana by a person other than the tax abatement applicant is eligible for tax abatement. Requires an annual adjustment of the maximum rate of a school capital projects fund. Allows local government officers to hire a private attorney in proceedings before the Indiana tax court, subject to approval of the attorney general. Allows a redevelopment commission to establish a program for housing and to employ tax increment financing with respect to the program. Allows tax abatement for prior years for the operator of a grey iron foundry in Grant County that was denied for those years. Allows a property tax exemption for prior years for a fraternity at Butler University that was denied for those years. Allows an exemption for prior years for a soccer facility. Provides that a taxpayer is entitled to an enterprise zone investment deduction in a military installation designated as an enterprise zone only if the deduction is approved by the military base reuse authority board. Increases the maximum levy for certain fire protection districts that have experienced high assessed value growth. Authorizes a refund of sales tax paid in prior years for a youth baseball organization. Allows a property tax exemption for a prior year for the Madame Walker Theater Center. Establishes increased maximum levies for the Dubois County Contractual Library and the Jasper Public Library. Allows a water service utility to correct a prior year's utility property tax return. Makes a technical correction to SEA 71-2006 concerning property tax payments by a storm water district to a municipality. Allows a designating body to grant a property tax abatement deduction for not more than two years to the owner of a building that is located in an economic revitalization area and has been vacant for at least one year, if the owner or a tenant of the owner occupies the building and uses the building for commercial or industrial purposes. Provides that the base assessed value of property in a tax increment financing allocation area is adjusted each time an annual adjustment is made. Allows the DLGF to adopt temporary rules to implement the investment deduction. Permits a designating body to waive errors in tax abatement forms and noncompliance with filing dates. **Effective:** Upon passage; January 1, 2005 (retroactive); January 1, 2006 (retroactive); July 1, 2006.

DIGEST OF SEA 345

Author(s): R. Meeks, Simpson, Hume, Miller

Sponsor(s): Espich, Welch

Citations Affected: IC 6-1.1-21-10.

Reversal of payment delays. Requires the reversal of part of the payment delays in the schedule under which: (1) property tax replacement credit and homestead credit amounts

are distributed to taxing units; and (2) distributions to state educational institutions are made. Makes an appropriation. **Effective:** July 1, 2006; January 1, 2007.

DIGEST OF SEA 353

Author(s): Weatherwax, Hershman, Gard, Jackman, Waterman, Drozda, R. Young, Hume, Skinner, Ford, Lanane, Heinold, Howard, Bray and Kruse

Sponsor(s): Grubb, Dvorak

Citations Affected: IC 5-28; IC 6-2.5; IC 6-3.1; IC 6-6; IC 15-9; IC 34-30.

Alternative fuel use and production. Allows a deduction for the retail sale of E85 base fuel from the amount of state gross retail tax that the seller is required to remit. Increases the maximum amount of credits that may be granted for biodiesel production, biodiesel blending, and ethanol production and indicates that the Indiana economic development corporation may grant a credit that is less than the maximum permissible statutory credit. Extends the tax credit for the retail sale of blended biodiesel to 2010. Makes changes in certain definitions applicable to the special fuels tax law. Extends the tax credit for integrated coal gasification powerplants to investments in fluidized combustion bed technologies. Requires the department of agriculture to work with: (1) automobile manufacturers to improve awareness and labeling; and (2) companies to include E85 stations in updates of global positioning navigation software. Grants tort and products liability immunity for the misuse of E85 motor fuel in a vehicle that is not equipped to use E85 motor fuel. Makes related changes. **Effective:** Upon passage; January 1, 2005 (retroactive); January 1, 2006 (retroactive); July 1, 2006; January 1, 2007.

DIGEST OF SEA 355

Author(s): Lawson

Sponsor(s): Ayres

Citations Affected: IC 6-1.1; IC 14-33-10-3; IC 36-9-37-19; IC 36-9-37-20.

Taxation. With the approval of the county fiscal body, allows a civil taxing unit or school corporation to file a property tax levy appeal to offset a levy shortfall in the preceding year before March 1 of the year the tax is due. For property taxes payable in 2006, establishes a deadline of April 1 instead of March 1. If such an appeal is filed, allows the county treasurer to either: (1) send tax statements on schedule and send later reconciling statements; or (2) delay tax statements up to 60 days pending resolution of the appeal. Allows a county council to petition the department of local government finance to establish an installment plan for property tax payments (without requiring the petition to be approved by the county treasurer and county auditor). Reduces the penalty for a late installment of property taxes from 10% to 5%, if (1) the late installment is completely paid on or before the date 30 days after the installment due date; and (2) the taxpayer is not also liable for delinquent property taxes first due and payable in a previous year for the same parcel. Permits in 2006 an additional deduction against adjusted gross income for the payment of delayed property taxes in taxable year 2005. Provides for a waiver by the county treasurer of a property tax late payment penalty if the taxpayer or an immediate family member of the taxpayer died in the week preceding the installment due date. Allows an appeal of a penalty waiver denial. **Effective:** Upon passage; January 1, 2006 (retroactive); July 1, 2006; January 1, 2007.

DIGEST OF SEA 362

Author(s): Ford

Sponsor(s): Turner

Citations Affected: IC 6-2.5; IC 6-3; IC 6-8.1; noncode.

Collection of delinquent taxes. Provides for biennial renewal of a registered retail merchant's certificate. Provides that the department of state revenue (department) must renew at no additional charge the registered retail merchant's certificate of a retail merchant who is current on the retail merchant's filing and remittance obligations. Prohibits the department from renewing the registered retail merchant's certificate of a retail merchant who is delinquent in remitting sales or use tax. Provides that the department shall notify a retail merchant who is delinquent in remitting sales or use tax at least 60 days before the expiration of the retail merchant's registered retail merchant's certificate that the department will not renew the retail merchant's registered retail merchant's certificate. Provides that a sheriff may keep a tax warrant and continue collections after a period of 120 days only after the department determines that: (1) the sheriff is collecting the warrant on a payment schedule that will satisfy the judgment within one year; and (2) the sheriff's electronic data base regarding tax warrants is compatible with the department's data base. Provides that if an apparent owner of unclaimed property is subject to an outstanding tax warrant, the department may levy against the unclaimed property. Provides that a taxpayer who receives a proposed assessment must file a protest within 45 days after the date the notice is mailed. (Current law allows 60 days.) Provides that a taxpayer must appeal a letter of finding to the tax court within 60 days after the date on which: (1) the letter of finding is mailed, if the taxpayer does not request a rehearing on the letter of finding within 30 days; or (2) the department issues a denial of the taxpayer's timely request for a rehearing on the letter of finding. (Current law allows 180 days after the letter of finding is mailed.) Provides that interest on an excess tax payment that the department does not refund or credit against a current or future tax liability within 90 days after: (1) the refund claim is filed; (2) the date the tax payment was due; or (3) the date the tax was paid; whichever is later, accrues interest from the date on which the refund claim is filed. (Current law provides that interest accrues from the later of the date on which the tax payment was due or the tax payment was paid.) **Effective:** July 1, 2006; January 1, 2007.

TITLE 7.1: ALCOHOLIC BEVERAGES

DIGEST OF HEA 1016

Author(s): Ayres, Ulmer, Foley, Cheney

Sponsor(s): Bray, Tallian

Citations Affected: IC 7.1-1-3-44; IC 7.1-2-3-16; IC 7.1-3; IC 7.1-4; IC 7.1-5-11-1.5; IC 7.1-5-11-15; IC 7.1-3-12-6.

Alcohol and tobacco matters. Conference committee report for EHB 1016. Requires a person who trains: (1) alcohol servers; and (2) individuals who plan to train alcohol servers; to hold a trainer certificate issued by the alcohol and tobacco commission (ATC). Requires: (1) a certified trainer to renew a certificate every three years by filing a renewal application form, completing a refresher course, and paying a \$45 fee; (2) certain retailer permittees, dealer permittees, or management representatives of the retailer or

Allows farm winery brandy distiller permittees to: (1) sell brandy to consumers by the glass, bottle, or both; and (2) conduct business at three additional locations apart from the distillery. Repeals provisions concerning: (1) certain certification requirements; and (2) an affidavit requirement for a holder of a farm winery permit. **Effective:** Upon passage; July 1, 2006.

TITLE 8: UTILITIES AND TRANSPORTATION

DIGEST OF HEA 1008

Author(s): Borrer, Duncan, Torr

Sponsor(s): Meeks, Hershman, Wyss,

Citations Affected: IC 4-4-10.9-1.2; IC 4-22-2-37.1; IC 5-10.3-6-8.9; IC 6-3.5-7-13.1; IC 8-14; IC 8-15-2; IC 8-15-3; IC 8-15.5; IC 8-15.7; IC 8-23-9-54; IC 9-13-2-6.3; IC 9-21-3.5; IC 22-4-25-1; IC 22-4-25-2.5; IC 34-13-3-3; IC 36-7.5.

Public-private agreements for transportation. Amends the current laws concerning toll roads and tollways and adds new provisions to authorize: (1) the Indiana finance authority (IFA) to enter into public-private agreements (agreements) with private entities (operators) concerning toll road projects; and (2) the Indiana department of transportation (INDOT) to enter into agreements with operators concerning tollway projects, roads, and bridges. Provides that the IFA may not enter into an agreement after August 1, 2006, if the agreement would authorize the imposition of tolls unless a statute authorizing the imposition of tolls is enacted. Provides that INDOT may not enter into an agreement concerning a project other than I-69. Prohibits the IFA, INDOT, or an operator from: (1) carrying out construction for I-69 in certain townships; (2) imposing tolls on a highway between Martinsville and Indianapolis; or (3) establishing a tollway (except on part of I-69); unless a statute authorizing that construction, tolling, or tollway is enacted. Provides that an agreement may be for any combination of the planning, acquisition, construction, improvement, extension, operation, repair, maintenance, and financing of projects. Provides that an agreement is subject to the approval of the governor after review by the budget committee. Establishes procedures for selection of operators by the IFA and INDOT. Permits the establishment of user fees and tolls under an agreement, including maximum tolls and user fees and criteria for the adjustment of those maximums. Provides that, with the approval of the budget director after review by the budget committee, an agreement may include a moral obligation of the state to pay certain costs incurred as a result of default by the state under the agreement. Provides that an agreement may include provisions concerning electronic toll collection systems and photo or video based toll collection enforcement systems. Authorizes the IFA to adopt emergency rules concerning user fees under an agreement and enforcement procedures and assessments for failure to pay required tolls, including electronic and photo or video based collection enforcement. Establishes a process to withdraw state employees from the public employees' retirement fund (PERF) and to allow certain state employees to retire when the employees' particular departmental, occupational, or other classifications are terminated from state employment as a result of: (1) a lease or other transfer of state property to a nongovernmental entity; or (2) a contractual arrangement with a nongovernmental entity to perform certain state functions. Establishes the funding sources for the amounts that the state is required to contribute to PERF for the purchase of up to 24 months of creditable service needed by a terminated employee who elects

dealer permittees to be trained not later than 120 days after the date the permittee receives a permit; and (3) certain retailer permittees and dealer permittees to ensure that each alcohol server is trained not later than 120 days from the date the alcohol server begins employment. (Current law requires a retail permittee, dealer permittee, or management representative to be trained not later than 90 days after the date the permittee receives the permit and an alcohol server to be trained not later than 90 days after the date of employment.) Requires: (1) the ATC to notify retailer and dealer permittees of the certification requirements at the time the permittees renew the retailer or dealer permits; (2) the ATC to approve and establish training programs; and (3) training programs to provide a server certificate to individuals who successfully complete the program. Allows the ATC to: (1) observe training at any time; and (2) adopt rules to carry out the training and certification requirements. Changes the deadline by which permittees and alcohol servers must be trained from January 31, 2008, to January 1, 2009. Provides that a primary source of supply or wholesaler may not provide an illuminated advertising sign to a dealer or retailer in a manner that violates the trade practice restrictions of the ATC or the law. Requires the ATC to issue a permit to the state fair commission. Allows for extended time for alcohol sales on New Year's Eve if New Year's Eve falls on a Sunday. Prohibits the issuance of an alcoholic beverage employee's permit to an individual with two convictions for operating while intoxicated if: (1) the first conviction occurred less than ten years before the date of the permit application; and (2) the individual completed the sentence for the second conviction less than two years before the permit application. Provides: (1) that if an individual has at least three convictions for operating while intoxicated in the immediately preceding ten years, the ATC may not grant a permit to the individual; (2) that if an individual has one or two convictions in the immediately preceding ten years, the ATC may grant or deny a permit to the individual; and (3) for the revocation of a permit upon an individual's subsequent conviction for operating while intoxicated. Allows for five new alcoholic permits within a district in an economic development area with a unit of the National Park Service partially located within the district, and with an international deep water seaport located within the district. Requires the ATC to conduct an auction of the permits. Redefines "farm winery". Allows a farm winery to sell the winery's wine to consumers by the bottle at a farmers' market that is operated on a not-for-profit basis. Allows a farm winery to offer wine tastings and sell the winery's wine at three locations apart from the winery. Increases to 30 days (from nine days) the amount of time in a calendar year during which a farm winery may participate in a trade show or exposition. Provides that a wine manufacturer located inside or outside Indiana that wants to sell wine directly to a consumer must obtain a direct wine seller's permit. Establishes an annual direct wine seller's permit fee of \$100. Makes it a Class A infraction for violating the direct wine shipping statutes and increases the penalty to a Class A misdemeanor or Class D felony if the seller has prior unrelated offenses. Establishes a wine wholesaler permit fee for a wholesaler that sells less than 12,000 gallons of wine and brandy annually. Prohibits the holder of a farm winery distiller's permit from selling brandy at wholesale and specifies that the holder may sell brandy only at retail on the permitted premises. Allows a person to bring 18 liters of wine into Indiana for personal use. Provides that any city that owns a golf course may obtain a permit for the retail sale of alcoholic beverages. Removes residency requirements for wine and beer wholesalers.

normal or early retirement. Deletes the requirement for certain payments to the northwest Indiana regional development authority (RDA) from toll road revenues or the state general fund. Provides that property leased or acquired by an operator for a public-private project is exempt from property taxes. Provides that an operator's income from an agreement is subject to taxation in the same manner as income received by other private entities. Provides that revenues from an agreement entered into with respect to a toll road shall be deposited in the toll road fund and used to: (1) retire certain outstanding bonds; (2) pay amounts owed by the IFA with respect to the agreement; and (3) distribute \$500,000,000 to the next generation trust fund. Provides that the remaining money in the toll road fund is to be distributed to the major moves construction fund. Establishes the major moves construction fund and provides for distributions from that fund for various purposes. Permits the budget agency, after budget committee review, to augment distributions from the major moves construction fund to INDOT. Provides that the total amount of distributions from the major moves construction fund for projects or purposes that benefit counties traversed by the Indiana toll road may not be less than 34% of the money transferred to the major moves construction fund from the toll road fund plus money held in escrow for certain toll reductions. Provides that the budget agency is responsible for determining the amount necessary to comply with the 34% requirement. Establishes the next generation trust fund and provides for distributions of interest on the fund to the major moves construction fund at 5 year intervals beginning in 2011. Provides for the distribution of revenues from an agreement entered into with respect to a tollway to the major moves construction fund, to the state highway fund, to INDOT for use on other projects designated by INDOT, or to the operator, the IFA, or INDOT for debt reduction. Prohibits the operator under an agreement or a person having at least a 1% interest in the operator from making political contributions to state, local, or legislative candidates or certain political committees. Provides that INDOT may not convert a state highway to a toll road or a tollway unless the general assembly adopts a statute approving the conversion. Allocates \$2,000,000 from the special employment and training services fund for certain pre-apprenticeship and apprenticeship programs related to the construction trades. Eliminates an allocation for certain training and counseling assistance programs provided by state educational institutions. Permits LaPorte County council to join the RDA if the county council and the city council of Michigan City adopt ordinances before September 15, 2006, providing that they are joining the RDA. Requires LaPorte County and Michigan City to make annual payments to the RDA. Provides that LaPorte County and Michigan City may use all or a part of their distributions from the major moves construction fund to pay their required contributions to the NIRDA. Permits Laporte County to use economic development income tax (EDIT) revenue to pay the county's contributions to the RDA provides that revenue from any increase in the county's EDIT rate must be used for that purpose. Makes technical corrections and conforming amendments. **Effective:** Upon passage; December 31, 2005 (retroactive); July 1, 2006.

DIGEST OF HEA 1212

Author(s): Dodge, Bell, Reske

Sponsor(s): Ford, Broden, Breaux

Citations Affected: IC 8-1.5; IC 14-32; IC 36-9; noncode.

Drainage assessments, sanitation districts, and storm water districts. Establishes water quality protection as a legislative policy. Makes changes to the membership of the soil conservation board (board) and the advisory members. Requires the board to conduct a conservation needs inventory and hold meetings throughout the state. Allows a waiver of the ten acres of land requirement to be waived for elected soil and water conservation district supervisors. Removes the requirement that the nominees for elected supervisors must exceed the vacancies. Allows the board to appoint associate supervisors for soil and water conservation districts. Adds information that must be included in annual reports. Requires the department of agriculture to implement a geographic information system for each county. Allows the clean water Indiana program to provide financial assistance to soil and water conservation districts. Provides that the state is not exempt from drainage assessments and is not entitled to a refund of a drainage assessment paid before January 1, 2006. Makes the following changes for a department of public sanitation in a sanitation district (district) that contains at least one city having a population of less than 100,000 and at least one town: (1) Makes the department an executive department of each municipality in the district. (2) Allows a district to perform certain functions in the name of any municipality in the district or in the name of the district. (3) Provides that fees related to property that is subject to full taxation do not take effect until the fees are approved by the legislative body of each municipality in the district or established by the utility regulatory commission. Allows an excluded city or town to withdraw from the Marion County storm water management district if the municipal legislative body adopts an ordinance withdrawing the municipality from the district. Requires certain notices to be provided as part of the withdrawal process. Provides that if there are bonds outstanding that have been issued by the board of public works of the consolidated city, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the municipality bears to the assessed valuation of all property included in the district before the municipality's withdrawal. Provides that a withdrawing municipality is entitled to receive the following: (1) An annual lump sum payment equal to the total amount of property taxes paid and allocated to the district's flood debt service fund from all property tax payers within the municipality, to the extent the property taxes are not necessary to pay the municipality's share of outstanding indebtedness. (2) The total amount of storm water user fees collected from the lots and parcels in the municipality. Requires these payments to be deposited by the municipality in a dedicated fund and used only for purposes of storm water management in the municipality. Makes technical corrections. **Effective:** Upon passage; January 1, 2006 (retroactive); July 1, 2006.

DIGEST OF HEA 1279

Author(s): Murphy, Koch, Mahern, Bell, Torr, C. Brown

Sponsor(s): Hershman, Wyss, Hume

Citations Affected: IC 4-23; IC 8-1; IC 35-45; noncode.

Establishes the accessible electronic information service fund. Prohibits the utility consumer counselor from engaging in another occupation that would conflict with the duties of the office. (Current law prohibits the counselor from engaging in any other occupation.) Specifies that a person that transmits communications through Internet Protocol enabled services is not a public utility. Prohibits the IURC from exercising jurisdiction over: (1) advanced and broadband services; and (2) information services. Specifies that the IURC shall not exercise jurisdiction over commercial mobile service. Prohibits, after March 27, 2006, the IURC from exercising jurisdiction over nonbasic telecommunications service. Specifies that "basic telecommunications service" does not include functionally equivalent service provided by a person that transmits communications through Internet Protocol enabled services. Provides that during the period beginning March 28, 2006, and ending June 30, 2009, a provider may increase the flat monthly rate for basic telecommunications service: (1) not more than once; and (2) by not more than \$1; every 12 months. Provides that not later than 18 months after a provider's first rate increase in a local exchange area, the provider must offer broadband service to at least 50% of households in the local exchange area. Requires an incumbent local exchange carrier (ILEC) to continue to offer a flat monthly rate for unlimited local calling in exchange areas in which the provider offers basic telecommunications service on March 27, 2006. Provides that after June 30, 2009, a provider that offers basic telecommunications service in Indiana: (1) must offer a flat monthly rate for unlimited local calling in each exchange area in which the provider offers basic telecommunications service; and (2) may not offer any service plan that includes measured local service. Prohibits, after June 30, 2009, the IURC from exercising jurisdiction over basic telecommunications service. Makes conforming changes to the laws concerning rural telephone cooperatives. Prohibits the IURC from exceeding the authority delegated to it under federal law with respect to: (1) interconnection; (2) the resale of telecommunications service; and (3) unbundled network elements. Requires the IURC to biennially identify and eliminate telecommunications regulations that are no longer necessary in the public interest or for the protection of consumers. Preserves the IURC's duties with respect to: (1) dual party relay services; (2) the 211 dialing code and other universally applicable dialing codes; (3) slamming and cramming laws; (4) universal service; (5) certificates of territorial authority; (6) mediating or arbitrating disputes between providers; (7) interconnection agreements; and (8) rates charged by an ILEC to a pay phone service provider. Allows the IURC to require communications service providers, other than commercial mobile service providers, to report annually, or more frequently at the option of the provider, information on: (1) service quality and performance; (2) the provider's dark fiber in Indiana; and (3) the types of communications service offered by the provider and the areas in Indiana in which those services are offered. Requires the IURC to adopt rules requiring a telecommunications service provider, whenever the provider communicates with a residential customer about changing the customer's basic telecommunications service to nonbasic telecommunications service, to notify the customer of: (1) the option of basic

telecommunications service; and (2) any regulatory protections the customer would forego by switching to nonbasic telecommunications service. Exempts commercial mobile service providers from certain reporting requirements, while requiring commercial mobile service providers to provide the IURC certain customer service contact information. Allows the IURC to revoke a certificate of territorial authority issued to a communications service provider if the provider fails or refuses to comply with the reporting requirements. With respect to telecommunications service providers and video service providers, allows the IURC to: (1) order certain equitable remedies; and (2) impose a civil penalty of not more than \$10,000; if a service of the provider over which the commission has jurisdiction is unsafe, unjustly discriminatory, or inadequate, or if the service cannot be obtained. Allows a provider of last resort to meet its obligations using any available technology. After June 30, 2009, requires a communications service provider to obtain a certificate of territorial authority from the IURC before offering communications service in Indiana. Requires the IURC to issue a certificate not later than 30 days after receiving a complete and accurate application from a provider. Provides that the IURC may not require a provider to file a tariff as a condition of receiving a certificate. Allows the IURC to condition the issuance of a certificate on a provider's agreement to provide advance notice to customers of increases in rates or services. Provides that a certificate of public convenience and necessity issued to an REMC may serve as a certificate of territorial authority for communications service provided by the REMC, subject to the IURC's right to require the REMC to provide certain information about the communications services provided. Prohibits a communications service provider from entering into an agreement after March 27, 2006, that requires any person to restrict or limit the ability of another provider to obtain: (1) easements or rights-of-way; or (2) access to real property. Provides that the IURC may not require a provider to provide communications service to occupants of multitenant nonresidential real estate if the owner, operator, or developer of the property does any of the following to benefit another provider: (1) Permits only one provider to install communications facilities or equipment on the premises. (2) Accepts incentives from a provider in exchange for allowing the provider the exclusive right to provide service to the premises. (3) Collects charges from occupants for communications service. (4) Enters into a prohibited agreement with a provider. Prohibits the owner, operator, or developer of multitenant real estate from taking certain actions to restrict or limit the access of a communications service provider to the property. Allows the owner, operator, or developer of multitenant real estate to impose certain conditions and limitations on a provider's access to the property in order to protect the safety or condition of the property or the safety and convenience of other people. Provides that certain persons affected by a violation of the access provisions may seek equitable or compensatory relief. Provides that the Indiana finance authority shall determine underserved areas within Indiana for purposes of the Indiana broadband development program. Provides that after June 30, 2006, the IURC is the sole franchising authority for the provision of video service in Indiana. Preserves the manner of determining gross revenue and franchise fee percentages set forth in existing local franchises. Prohibits the IURC from requiring a multichannel video programming distributor to pay any fee or charge, other than a franchise fee paid to a local unit, as a condition of receiving or holding a state certificate of franchise authority. Provides that the holder of a state issued franchise must comply

with state and local laws governing the use of rights-of-way. Provides that such laws may not: (1) discriminate against a provider based on the technology used to deliver service; or (2) allow a video service system owned or operated by a local unit to use rights-of-way on more favorable terms. Prohibits the IURC from requiring a provider to satisfy any build-out requirements. Allows the holder of a local franchise on June 30, 2006, to: (1) continue providing service under the local franchise until the local franchise expires; or (2) terminate the local franchise and apply to the IURC for a state issued franchise. Provides that a provider that terminates a local franchise remains subject to any obligations owed to a private person under the franchise until the time the terminated franchise would ordinarily expire. Prescribes requirements concerning public, educational, and governmental channel capacity and financial support. Provides that a video service provider in a unit that has an existing, a terminated, or an expired local franchise is required to continue providing institutional network capacity and video service to community public buildings until January 1, 2009, or until the local franchise will expire or would have expired, whichever is later. Prohibits a provider from denying access to video service to any group of potential subscribers based on income. Requires the IURC to adopt rules to establish the Indiana Lifeline assistance program to provide reduced charges for basic telecommunications service for eligible customers. Requires the IURC to collect, on at least an annual basis, certain data concerning the build out of video service infrastructure in each metropolitan statistical area in Indiana during the period beginning July 1, 2006, and ending June 30, 2010. Requires the IURC to include the data collected in the IURC's report to the regulatory flexibility committee due July 1, 2010. Requires the IURC to: (1) conduct an analysis of retail and wholesale rates charged by the telecommunications industry in Indiana; and (2) make a record of each instance of predatory pricing identified; for the period beginning July 1, 2006, and ending June 30, 2008. Requires the IURC to report its findings to the legislative council not later than November 1, 2008. Repeals superseded statutes. **Effective:** Upon passage; July 1, 2006; July 1, 2009.

DIGEST OF HEA 1315

Author(s): Thompson, Hoy

Sponsor(s): Landske, Sipes

Citations Affected: IC 8-1-34-16; IC 8-1-34-22.

Video service franchises. Provides that the obligations owed to private persons by a video service provider that terminates a local franchise in order to obtain a state-issued franchise do not include obligations: (1) arising out of the terminated local franchise; or (2) based on the gross income received by the provider in the service area covered by the terminated local franchise. **Effective:** Upon passage.

DIGEST OF SEA 22

Author(s): Gard

Sponsor(s): Wolkins

Citations Affected: IC 8-1.

Pipeline safety. Provides that the pipeline safety laws apply to hazardous liquids and carbon dioxide fluid. Increases the maximum civil penalties that may be imposed under the pipeline safety laws. Provides that certain information concerning pipelines is

confidential for purposes of the law concerning access to public records. **Effective:** July 1, 2006.

DIGEST OF SEA 69

Author(s): Weatherwax, Landske, Gard, Hume

Sponsor(s): Koch, Borrer, Bischoff, Stillwell

Citations Affected: IC 8-1.

Governance of rural telephone cooperatives. Specifies that, in an election for a director of a rural telephone cooperative corporation, the corporation's bylaws may provide that if more than two persons run for election as a director from the same district, the person receiving the most votes is elected, regardless of whether that person receives a majority of the total votes cast by those members present and voting at the meeting at which the election occurs. **Effective:** Upon passage.

DIGEST OF SEA 71

Author(s): Ford, Gard, Heinold

Sponsor(s): Dodge, Friend, Moses

Citations Affected: IC 8-1.5; IC 36-9; noncode.

Drainage assessments and storm water. Provides that the state and political subdivisions are not exempt from drainage assessments. Provides that the state is not entitled to a refund of a drainage assessment paid before January 1, 2006. Requires county treasurers to send annually to the state land office a list of state property for which drainage assessments are delinquent. Establishes the procedures for and the conditions under which an excluded city or town in Marion County may withdraw from the storm water special taxing district. **Effective:** Upon passage; January 1, 2006 (retroactive).

DIGEST OF SEA 72

Author(s): Long, Howard

Sponsor(s): Borrer, Stevenson, J. Lutz, Moses

Citations Affected: IC 8-1.

IURC proceedings. Permits the utility regulatory commission (IURC) to deliberate in executive session on a proposed IURC order under certain circumstances. **Effective:** Upon passage.

DIGEST OF SEA 73

Author(s): Long, Lanane

Sponsor(s): Davis, Stillwell

Citations Affected: IC 8-2.1.

Indemnity agreements in motor carrier contracts. Provides that certain indemnity provisions contained in, collateral to, or affecting a motor carrier transportation contract are against public policy and are void and unenforceable. **Effective:** July 1, 2006.

DIGEST OF SEA 382

Author(s): Becker, Lutz

Sponsor(s): Crouch, Hoy

Citations Affected: IC 8-22.

Airport development zone. Decreases the minimum size of a qualified airport development project in Vanderburgh County to \$250,000 (the same threshold that applies to all other units except Marion County). Deletes a provision restricting an airport development zone in Vanderburgh County to the airport and up to three square miles of area outside of the airport. Removes the provision specifying that a tax increment financing "allocation area" may not be established by an airport development zone in Vanderburgh County. Allows an airport authority board in Vanderburgh County to amend a resolution designating an airport development zone to include a provision with respect to the allocation and distribution of property taxes. Specifies requirements for approval of the amendment by county and municipal authorities. Deletes provisions concerning enterprise zone inventory property tax credits in airport development zones in Vanderburgh County. Authorizes the establishment of an airport development zone in Delaware County. **Effective:** April 1, 2006; January 1, 2007.

TITLE 9: MOTOR VEHICLES

DIGEST OF HEA 1013

Author(s): Burton, Noe, Welch, Duncan
Sponsor(s): Miller, Craycraft, Landske, Kruse
Citations Affected: IC 9-18; IC 9-29.

License plates. Creates an In God We Trust license plate, and specifies that it is not a special group recognition license plate. Provides that bureau of motor vehicles may not change a pull service charge fee for a requested passenger motor vehicle registration plate for a license plate that designates the passenger motor vehicle as being owned by a person who has received a Purple Heart decoration.

Effective: July 1, 2006.

DIGEST OF HEA 1103

Author(s): Yount, Saunders, Goodin, Stevenson
Sponsor(s): Steele, Broden
Citations Affected: IC 9-13; IC 9-24.

Bureau of motor vehicles matters. Defines a dealer for purposes of watercraft sales as a person who sells at least six: (1) boats; or (2) trailers designed and used exclusively for the transportation of watercraft and sold in general association with the sale of watercraft; a year. (Current law defines a dealer for purposes of watercraft sales as a person who sells at least six boats a year.) Provides that a trailer or semitrailer used in the transportation of watercraft may be considered to be an abandoned vehicle under certain circumstances. Provides that if the birthday on which a driver's license issued after 2006 would otherwise expire falls on Sunday, a legal holiday, or a weekday when all license branches, full service providers, and partial services providers in the driver's license holder's county of residence are closed, the driver's license of the holder does not expire until midnight of the first day after the birthday on which a license branch, full service provider, or partial service provider is open for business in the holder's county of residence. **Effective:** Upon passage; July 1, 2006.

DIGEST OF HEA 1128

Author(s): Duncan, Messer, Summers, L. Lawson

Sponsor(s): Wyss, Kruse, Hume

Citations Affected: IC 9-30.

Ignition interlock devices. Provides that when a court grants probationary driving privileges to certain persons, the order must include the requirement that for six months the person may not operate a motor vehicle unless: (1) the motor vehicle is equipped with a functioning certified ignition interlock device; or (2) the person is successfully participating in a court supervised alcohol treatment program involving disulfiram (antabuse) or a similar substance. Requires a person who is not indigent to pay the costs of the ignition interlock program. **Effective:** July 1, 2006.

DIGEST OF HEA 1150

Author(s): Crooks, J. Smith, Stutzman, Goodin

Sponsor(s): Kruse, Skinner

Citations Affected: IC 9-18; IC 9-29.

Use of antique license plates on motor vehicles. After December 31, 2007, authorizes a person registering an antique motor vehicle to display an authentic license plate from the vehicle's model year on the antique motor vehicle. Removes the specification of the colors used for the antique motor vehicle plate from the statute. **Effective:** July 1, 2006.

DIGEST OF HEA 1286

Author(s): Duncan, Wolkins, Goodin

Sponsor(s): Waterman, Lewis, Hume, Merritt

Citations Affected: IC 9-13; IC 9-24; IC 9-29; noncode.

Motorcycle operational skills test. Requires the bureau of motor vehicles to adopt rules to: (1) establish standards for persons administering operational skills tests and the provisions of the operational skills tests; and (2) determine a charge to cover the direct costs of administering the operational skills tests. Repeals the definition of "certified motorcycle operational examiner". **Effective:** Upon passage; July 1, 2006.

DIGEST OF HEA 1300

Author(s): Mahern, Davis, Borrer

Sponsor(s): Wyss, Breaux

Citations Affected: IC 9-13; IC 9-24; noncode.

Commercial driver's licenses and permits. Expands the definition of "Indiana resident", for purposes of the commercial driver's license (CDL) law, to include an individual who temporarily resides in Indiana in order to attend a truck driver training school. Authorizes the bureau of motor vehicles to issue a CDL learner's permit or a CDL to a resident of another state who is temporarily living in Indiana to attend a truck driver training school, and makes a permit or CDL issued to such a student valid for 90 days. Makes it a Class C infraction for the owner of a truck driver training school to fail to notify the bureau of certain events. Specifies that a truck driver training school that is not a state educational institution is subject to rules adopted by the commission on proprietary education. Makes conforming amendments. **Effective:** Upon passage.

DIGEST OF HEA 1331

Author(s): Hoffman, Bischoff
Sponsor(s): Weatherwax, R. Young
Citations Affected: IC 6-6; IC 9-29; IC 9-31.

Out-of-state boat registration. Provides that a motorboat that is registered in another state is not required to be registered or titled in Indiana if the motorboat owner pays the boat excise tax and certain fees. Establishes a \$2 fee paid to the bureau of motor vehicles for collecting the excise tax and fees on a motorboat registered in another state.

Effective: July 1, 2006.

DIGEST OF SEA 133

Author(s): Kruse, R. Meeks
Sponsor(s): Dodge
Citations Affected: IC 9-20.

Permits for oversized tractor-semitrailer. Requires a permit issued by the department of transportation for transporting an oversized tractor-semitrailer to authorize the operation of the tractor-semitrailer from ½ hour before sunrise to ½ hour after sunset.

Effective: July 1, 2006.

DIGEST OF SEA 145

Author(s): M. Young, Delph, Wyss, Drozda, Howard
Sponsor(s): Duncan, Noe
Citations Affected: IC 9-13; IC 9-26; IC 9-30; IC 34-24.

Vehicle forfeiture and driving while intoxicated. Permits the forfeiture of a motor vehicle operated by a person who has at least two prior unrelated convictions in the previous five years for operating while intoxicated if the person commits operating a motor vehicle while intoxicated or operating a motor vehicle with a suspended driver's license. Provides that a motor vehicle that is not owned by the person or the spouse of the person who unlawfully operated it may not be seized unless the owner knew that the vehicle would be unlawfully operated. Prohibits the bureau of motor vehicles from registering a motor vehicle in the name of a person whose motor vehicle has been forfeited until the person proves that the person possesses a current driving license. Provides that when a court grants probationary driving privileges to certain persons, the order must include the requirement that for six months the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device. Provides that a certified phlebotomist may obtain a bodily substance sample under certain circumstances. Provides that for purposes of the duties of a driver, owner and passengers of a vehicle after a vehicle accident, an accident does not require proof of a collision between a driver's vehicle and another vehicle or another person if the accident involves serious bodily injury to or the death of a person. Amends the definition of chemical test for determining the presence of alcohol or a drug. Revises penalties for the failure to submit to a portable breath test or a chemical test. Adds excise police officers of the alcohol and tobacco commission to the definition of law enforcement officer for motor vehicle laws. **Effective:** July 1, 2006.

DIGEST OF SEA 154

Author(s): Heinold, Bowser, Tallian, Landske, Broden

Sponsor(s): Heim

Citations Affected: IC 9-20.

Extra heavy duty highway. Designates part of State Road 39 as an extra heavy duty highway. **Effective:** Upon passage.

DIGEST OF SEA 208

Author(s): Dillon, Lanane, Heinold

Sponsor(s): T. Brown, Welch

Citations Affected: IC 9-24.

Medical alert on licenses or identification cards. Provides that if an applicant for a driver's license, a learner's permit, or an identification card submits information concerning the applicant's medical condition to the bureau of motor vehicles, the bureau shall include an identifying symbol and a summary of the information on the driver's license, learner's permit, or identification card. Requires the bureau to inform an applicant that submission of medical information is voluntary. Removes from the statutes the provisions for including an applicant's blood type on a driver's license, learner's permit, or identification card. **Effective:** July 1, 2006.

DIGEST OF SEA 235

Author(s): Gard, Wyss, Craycraft

Sponsor(s): Duncan

Citations Affected: IC 9-18.

Special group recognition license plates. Authorizes a special group recognition license plate to be displayed on a motorcycle. Provides that: (1) special groups that participate in the program may request that the bureau of motor vehicles (BMV) collect a \$25 annual fee on behalf of the group; (2) the fee then is deposited by the BMV in a trust fund for the special group established by the treasurer; and (3) on June 30 of each year, the commissioner of the BMV distributes the money from the fund to the special group. Prohibits the BMV from disclosing information that identifies certain persons to whom special group license plates have been issued. Sets the procedure for collection of the annual fee by the BMV. Appropriates the money in the trust funds for the purposes of the trust funds. Makes a technical correction. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 236

Author(s): Drozda, Skinner

Sponsor(s): Friend, Turner

Citations Affected: IC 9-27; noncode.

Driver training schools. Requires the bureau of motor vehicles to adopt rules concerning classroom training by a commercial driver training school outside the county in which the school is located. **Effective:** Upon passage.

DIGEST OF SEA 264

Author(s): Weatherwax
Sponsor(s): Duncan, Mahern
Citations Affected: IC 9-23.

Offsite vehicle sales. Changes the criteria for an automobile dealer to obtain a license for an offsite sale. **Effective:** Upon passage.

DIGEST OF SEA 269

Author(s): Miller
Sponsor(s): Duncan
Citations Affected: IC 4-23; IC 9-18.

License plates. Requires the bureau of motor vehicles to issue personalized license plates annually. Provides that the reservation of a personalized license plate must be completed before October 31 of the year before the personalized license plate is issued. Requires the bureau of motor vehicles, before October 1 of each year, to contact the holders of personalized license plates and remind them of the necessity of reserving a personalized license plate before October 31 in order to be issued the same personalized license plate for the subsequent year. Provides that when the money in the Indiana arts commission trust fund (fund) reaches one million dollars (\$1,000,000), the interest and dividend earnings of the fund are appropriated annually to the Indiana arts commission. (Current law provides that the money in the fund must reach fifty million dollars (\$50,000,000) before the interest and dividend earnings may be appropriated.) **Effective:** July 1, 2006.

DIGEST OF SEA 303

Author(s): Kruse
Sponsor(s): Duncan, Davis, Goodin
Citations Affected: IC 9-16-1-7; IC 9-23-2-16; IC 9-24; IC 9-29; IC 10-11-2-26; IC 24-4-6-1.

Various motor vehicle matters. Provides that the prohibition against Sunday sales of motor vehicles does not apply to an auctioneer who has been issued a special event permit by the bureau of motor vehicles and sets a fee for issuance of the permit. Revises language pertaining to the requirements for issuance, renewal, and expiration of certain driver's licenses. Requires the relative or guardian accompanying a driver less than 18 years of age who holds a learner's permit to be at least 21 years of age. Authorizes the acceptance of a corporate check for an original or a renewal commercial driver training school license or instructor's license. Revises language concerning the fee for issuance of state identification cards under certain circumstances. Requires all license branches that provide state identification cards (rather than only full service branches) to be open on the day before election day and on election day to issue driver's licenses and state identification cards. Corrects a cross-reference to the definition of "election day". Provides that a license branch is not required to be open on election day or the day before election day to issue driver's licenses and identification cards if there are no precincts in the county in which an election is held on election day. Requires the bureau of motor vehicles commission (commission) to designate another day as time off for an employee of the commission who works on an election day. (Current law requires the commission to designate another day as compensatory time off.) Repeals language: (1) requiring the

holding of a public passenger chauffeur's license in order to drive certain motor vehicles; and (2) concerning the renewal of the motorcycle endorsement of a driver's license or a motorcycle operator's license. Removes obsolete language. **Effective:** Upon passage; January 1, 2006 (retroactive); July 1, 2006.

DIGEST OF SEA 305

Author(s): Rogers, M. Young

Sponsor(s): Hinkle, Klinker

Citations Affected: IC 9-13-2-170.7; IC 9-21-5-14; IC 9-21-12; IC 20-27-3-4; IC 20-27-3-7.

Special purpose buses, emergency exits on buses. Conference committee report for ESB 305. Requires a special purpose bus to stop before crossing railroad tracks. Provides that a special purpose bus may not be operated at a speed greater than fifty-five (55) miles per hour. Provides that a school bus or special purpose bus may not be operated with passengers on board if an exit or emergency exit window is obstructed, and makes a violation a Class B infraction. Allows the state school bus committee to adopt rules concerning special purpose buses. **Effective:** July 1, 2006.

DIGEST OF SEA 339

Author(s): Merritt

Sponsor(s): Duncan, Davis

Citations Affected: IC 9-22; IC 9-29.

Certificate of salvage titles. Authorizes the owner of a salvage motor vehicle to retain possession of the salvage motor vehicle under certain circumstances. Sets the procedure for the owner to obtain a certificate of salvage title. Repeals and relocates language relating to the fee for the issuance of a salvage title. Specifies that the revenues collected from the issuance of salvage titles shall be deposited in the motor vehicle highway account. Makes it a Class D infraction for a person who fails to comply with certain requirements concerning certificates of title and certificates of salvage title on salvage motor vehicles. **Effective:** July 1, 2006.

DIGEST OF SEA 374

Author(s): Mishler, Wyss, Delph, Smith, Becker

Sponsor(s): T. Brown, Duncan

Citations Affected: IC 9-13; IC 9-19; IC 9-21.

Child passenger restraint systems exception. Provides that the laws relating to the use of passenger restraint systems for children do not apply to the operator of a motor vehicle used in the following: (1) A funeral procession. (2) The return trip to the funeral home. (3) Both the procession and the return trip. Repeals and relocates the definition of "funeral procession". Makes conforming amendments. **Effective:** July 1, 2006.

TITLE 10: STATE POLICE, CIVIL DEFENSE AND MILITARY AFFAIRS

DIGEST OF HEA 1176

Author(s): Woodruff, Burton

Sponsor(s): Waterman, Delph, Hume

Citations Affected: IC 10-13; IC 35-47; noncode.

Handgun license renewal. Provides that the period during which an application for the renewal of a handgun license may be filed begins 180 days before the license expires. Requires the superintendent of the state police (superintendent) and local law enforcement agencies to allow an applicant desiring to obtain or renew a license to carry a handgun to submit an application electronically if federal funds are available to establish and maintain an electronic application system. Requires the superintendent to keep on file one set of fingerprints from each applicant if an electronic application system is established. Requires the state to participate in the National Instant Criminal Background Check System (NICS) for firearms sales if federal funds are available to assist the state in participating in the NICS. Repeals provisions: (1) relating to an audit of the destruction of handgun purchase records by the attorney general; (2) describing state police procedures in reference to a background check request by a handgun dealer; (3) specifying a handgun buyer's right to review and correct criminal history information; (4) establishing a criminal penalty for obtaining criminal history information under false pretenses; and (5) establishing a criminal history check fee. Permits a person to apply for and receive a lifetime handgun license. Requires a person applying for a lifetime handgun license to pay a fee of: (1) \$125 for a lifetime unlimited license if the person does not currently possess a valid handgun license; (2) \$100 for a lifetime unlimited license if the person currently possesses a valid handgun license; (3) \$75 for a lifetime qualified license if the person does not currently possess a handgun license; and (4) \$60 for a lifetime qualified license if the person currently possesses a handgun license. Provides that the local law enforcement agency that initially processes the license application retains: (1) \$50 if the person does not currently possess a valid handgun license; and (2) \$40 if the person currently possesses a valid handgun license; the state receives the remaining fee. Increases the fee for a four-year license to \$30, and raises the fee for a replacement license to \$20. Provides that handgun license fees are to be deposited in the state general fund. Provides that if revenues from handgun license fees exceed \$1,100,000 during a state fiscal year, the excess is appropriated to the state police department for expenses related to the central repository for criminal history data or an electronic log to record the sale of drugs containing ephedrine or pseudoephedrine. Requires a person who may have become disqualified from holding a license to notify the superintendent within 30 days. Makes other changes and conforming amendments.
Effective: July 1, 2006.

DIGEST OF HEA 1236

Author(s): Ruppel, Tincher

Sponsor(s): Wyss, Alting, Craycraft

Citations Affected: IC 10-11.

Capitol police salary matrix. Provides that special police officers who provide security and preserve the peace in and around the state capitol building, the state office building, and certain other state facilities are capitol police. Requires the state police board to adopt a salary matrix for capitol police with the same percentage salary differentials between the ranks as the salary matrix for police employees. Provides that the matrix must be used after June 30, 2007. Permits employees of the state police department to wear their uniform and use their radio and firearm while performing nonduty work, if

that work is approved by the superintendent in accordance with the rules and employee policies of the department. **Effective:** July 1, 2006.

DIGEST OF HEA 1238

Author(s): Welch, Ruppel, T. Brown, C. Brown

Sponsor(s): Wyss, Craycraft, Becker, Sipes

Citations Affected: IC 10-14.

Emergency management mobile support. Specifies the types of individuals who and the time frame in which an individual can be called to duty with a mobile support unit. Specifies: (1) liability provisions concerning the individual; and (2) compensation and reimbursement available to a member's employer or a member of a mobile support unit who is not an employee of the state or a political subdivision. **Effective:** July 1, 2006.

DIGEST OF SEA 47

Author(s): Hershman, Craycraft, Delph

Sponsor(s): McClain, Thomas

Citations Affected: IC 10-13-3-36; IC 12-17.2-3.5-12.

Criminal background checks. Exempts a tax-exempt church or religious organization from the fee for conducting a criminal background check on an prospective or current employee or a prospective or current volunteer who works in a nonprofit program or ministry (including a child care ministry). **Effective:** July 1, 2006.

DIGEST OF SEA 75

Author(s): Long, Delph, Craycraft, Zakas, Howard

Sponsor(s): Borrer, Reske

Citations Affected: IC 9-13-2-196.5; IC 9-18; IC 9-29-5-38.5; IC 10-17-12.

Military family relief fund. Establishes the military family relief fund (fund) to provide grants for essential family support expenses to the families of Indiana residents who: (1) are members of the Indiana National Guard or the armed forces reserves; and (2) have been called to active duty after September 11, 2001. Allows the veterans' affairs commission to establish the eligibility criteria and application and selection procedures for the grants. Requires the director of veterans' affairs to report to the budget committee before August 1, 2006, on the grant determination procedures to be used. Permits the director of veterans' affairs or a member of the commission to make a request to the general assembly for an appropriation to the fund. Annually appropriates any money in the fund that is not otherwise appropriated for the purposes of the fund. Creates a Hoosier veteran license plate and specifies that the plate is not a special group recognition license plate. Provides for the collection of a \$15 annual supplemental fee at the time a vehicle plated with a Hoosier veteran license plate is registered, which is to be deposited in the military family relief fund. Creates a support our troops license plate as a special recognition license plate. Provides for the collection of a \$20 annual supplemental fee at the time a vehicle plated with a support our troops license plate is registered, which is to be deposited in the military family relief fund. Requires the bureau of motor vehicles to terminate the issuance of the Hoosier veteran license plate formerly issued as a special group recognition license plate. Provides that the amount appropriated in the budget bill for statutory fee remission in the state fiscal year beginning July 1, 2006, and ending June

30, 2007, may be used for dependents of veterans with disabilities not greater than zero percentage. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 191

Author(s): Wyss, Craycraft
Sponsor(s): Ruppel, L. Lawson
Citations Affected: IC 10-13.

Photos in criminal history files. Provides that a sheriff, police department, or criminal justice agency required to report an arrest to the state central repository for criminal history data shall transmit a photograph of the person who is the subject of the report at the time the arrest is reported. Allows the state police department to adopt guidelines concerning the method of transmitting photographs, and requires a person submitting the photograph to follow the department's guidelines. Includes a photograph as part of the information that may be obtained in a limited criminal history. **Effective:** July 1, 2006.

TITLE 11: CORRECTIONS

DIGEST OF SEA 275

Author(s): Long, Lanane
Sponsor(s): Foley, Kuzman
Citations Affected: IC 11-12.

Forensic diversion programs. Provides that if a person fails to participate in or complete a postconviction forensic diversion program, a court may: (1) revoke the person's probation; (2) lift a stay of execution of a nonsuspendible part of the person's sentence; (3) modify the person's sentence; (4) order that the person's suspended sentence be executed; or (5) order the person to serve part of the sentence on work release. **Effective:** July 1, 2006.

DIGEST OF SEA 332

Author(s): M. Young, Bowser, Becker, Breaux, Craycraft
Sponsor(s): Buell, Kromkowski
Citations Affected: IC 5-10; IC 11-8; IC 20-12; noncode.

Department of correction pension benefits. Specifies that if a hazardous duty employee of the department of correction: (1) works within a prison or juvenile facility or performs parole or emergency response operations and functions; and (2) dies in the line of duty; the employee's survivor is entitled to the \$150,000 death benefit from the special death benefit fund. Provides that each child and surviving spouse of such a hazardous duty employee is eligible to attend any state supported college, university, or technical school without paying tuition or mandatory fees. Requires the pension management oversight commission to study retirement and other employee benefits for hazardous duty workers of the department of correction. **Effective:** July 1, 2006; January 1, 2007.

TITLE 12: HUMAN SERVICES

DIGEST OF SEA 36

Author(s): Lawson, Simpson
Sponsor(s): Noe, C. Brown
Citations Affected: IC 12-7; IC 12-21; noncode.

Commission on mental health. Creates a statutory 17 member commission on mental health until June 30, 2011 to study the delivery of mental health services in Indiana. (The commission was originally established by a Noncode provision that expired January 1, 2006.) **Effective:** Upon passage.

DIGEST OF SEA 41

Author(s): Miller

Sponsor(s): T. Brown, C. Brown

Citations Affected: IC 12.

Division of Aging and long term care. Establishes the division of aging as a division separate from the division of disability and rehabilitative services. Reestablishes the self-directed in-home care program (program) that expired July 1, 2005. Allows the office of the secretary to use the survey performed by the state department of health when licensing a home health agency or personal services agency in determining whether to approve the entity to provide services for programs administered by the office of the secretary. Requires that 51% of a center for independent living's board must have a significant disability to be considered to have consumer control. Requires the office of the secretary of family and social services to report to the legislative council before November 1, 2009, on the implementation and outcome of the program. Requires the office of Medicaid policy to study certain programs and expenditures concerning long term care and report the findings to the select joint commission on Medicaid oversight. Removes obsolete references. Makes conforming amendments and a technical correction. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 139

Author(s): Lawson, Lanane

Sponsor(s): Bell, Budak, Summers

Citations Affected: IC 10-13-3; IC 12; IC 16-37-2-2.1; IC 31; IC 33-37-5-6.

Department of child services matters. Provides that the term "caseworker" for purposes of juvenile law, including emergency placement of a child, means an employee of the department of child services (department) who is classified as a family case manager. Expands the definition of "emergency placement" for purposes of the law concerning criminal history record checks to include any out-of-home placement for temporary care and custody of a child at or after the time of initial removal or transfer of custody of the child from the child's parent, guardian, or custodian. Specifies that "emergency placement" does not include any proposed or actual change in location of the child's placement for continuing care and custody after the court has entered an order at the time of or following a detention hearing, unless a court or an agency responsible for the child's care and supervision determines that an immediate change in placement is necessary to protect the child's health or safety. Replaces the issuance of probationary licenses with probationary status periods for: (1) child caring institutions; (2) foster homes; (3) group homes; and (4) child placing agencies. Removes provisions that invalidated a license for these entities when a probationary license was issued. Requires the person attending a child's birth, when explaining to the birth mother and putative father immediately before or after the birth the legal consequences of executing a paternity affidavit, to specify (and the written information from the department to specify) that: (1) upon execution of a paternity affidavit, the mother and the state may

obtain a child support order that requires the provision of health insurance coverage; (2) the rights and responsibilities of the putative father include reasonable parenting time; and (3) the department may file the paternity affidavit with a court. Provides that: (1) a paternity affidavit may not be rescinded more than 60 days after the affidavit is executed unless a court has ordered a genetic test at the request of the man who executed the affidavit; and (2) a court may not set aside an affidavit unless a genetic test excludes the man who executed the affidavit as the child's father. Requires a court to complete: (1) a factfinding hearing not more than 60 days after a petition is filed alleging that a child is a child in need of services (CHINS); (2) a dispositional hearing not more than 30 days after the date the court finds that a child is a CHINS; and (3) a hearing on a petition to terminate a parent-child relationship not more than 180 days after the petition is filed. Allows a court to extend the time frame to complete a factfinding on a CHINS petition for an additional 60 days. Provides that the department may request that judgment on a petition alleging a child is a CHINS be entered not later than 30 days after the request. Deletes requirement that a court clerk forward a copy of an adoption petition to the division of family and children. Revises the definition of "substantiated" when used in reference to a child abuse or neglect report. Provides that child welfare caseworkers, supervisors, and managers must have access to certain information under the automated child protection system regardless of the security requirements for confidentiality. Provides that: (1) child welfare caseworkers must be allowed access to other cases or investigations that involve a family member of a child or the child whose case is assigned to the caseworker; and (2) child welfare supervisors may have access to other cases or investigations that involve a family member of a child or the child whose case is assigned to a caseworker who reports to the supervisor or whose case is assigned to the supervisor. Provides that a juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree for a CHINS hearing or a delinquency hearing. Provides that a juvenile court shall require the department to file a progress report on a CHINS petition every 3 months after entering a dispositional decree. Requires a report prepared by the state in a dispositional decree to be made available to the child's foster parents under certain circumstances. Removes: (1) powers to suspend certain licenses; and (2) a provision that allows certain parties to request a genetic test. Provides that: (1) an application for a license to operate a child care center may be denied; (2) a license to operate a child care center may be revoked; (3) an application for a license to operate a child care home may be denied; and (4) a license to operate a child care home may be revoked; if the department determines that certain individuals have committed child abuse or neglect. Requires the department to investigate claims of abuse or neglect in child care centers and child care homes. Provides that a report of an investigation of child abuse or neglect shall be made available to the division of family resources if the report is classified as substantiated and concerns an applicant, licensee, employee, or volunteer of a child care center or child care home. Repeals references to suspension powers. Defines "wardship" for purposes of the juvenile law, and makes conforming amendments. Specifies that the department is to submit fingerprints to the Federal Bureau of Investigation 15 calendar days after the national name based criminal history check is conducted. Allows a juvenile court at a detention hearing to: (1) impose on a child alleged to be a child in need of services, or on the child's parent, guardian, or custodian,

conditions to ensure the safety of the child; and (2) impose on a child alleged to be a delinquent child, or on the child's parent, guardian, or custodian, conditions to ensure any combination of the safety of the child or the public's physical safety. Requires a court to set a hearing within four business days to determine whether emergency placement is appropriate for a child whose custodial parent or guardian has died or has become unable to care for the child, if a person other than a parent files a petition to determine or modify custody of the child. Provides that a court is not required to set a hearing within 48 hours if: (1) it appears from the pleadings that no emergency requiring placement of a child with a person other than the noncustodial parent exists; (2) it appears from the pleadings that the petitioner does not have a reasonable likelihood of success on the merits; or (3) manifest injustice would result. Provides that the child care fund shall remain in existence until the entire balance of the child care fund is transferred to the division of family resources child care fund. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 151

Author(s): Lawson, Lanane, Simpson, Breaux
Sponsor(s): Turner, Budak, Crawford
Citations Affected: IC 12-17.2.

Child care regulation. Specifies that a licensed child care provider is considered to be in compliance with requirements for federal Child Care and Development Fund (CCDF) voucher payments. Amends drug testing requirements for CCDF providers, child care homes, and child care centers. Makes child care ministry inspections semiannual and as necessary, but not more than four inspections per ministry per year. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 168

Author(s): Miller, Ford
Sponsor(s): Foley, Thomas
Citations Affected: IC 12-15-23-6.

Medicaid fraud. Specifies that a prosecuting attorney may refer a case involving abuse or neglect of a Medicaid patient, in addition to Medicaid fraud, to the attorney general for prosecution. **Effective:** July 1, 2006.

TITLE 13: ENVIRONMENT

DIGEST OF HEA 1018

Author(s): Robertson, Wolkins, Hinkle, Oxley
Sponsor(s): Hershman, R. Young
Citations Affected: IC 13-18-16-16.

Water authority audits. Requires a nonprofit water utility that is reconstituted as a water authority to have an annual audit by a certified public accounting firm and to keep the audit report on file. Provides that the water authority is not subject to audit or examination by the state board of accounts, to the examination guidelines and reporting requirements of the state board of accounts, or to certain statutes that apply to political subdivisions. **Effective:** July 1, 2006.

DIGEST OF HEA 1110

Author(s): T. Brown, Wolkins, Pierce, Micon

Sponsor(s): Gard, Simpson

Citations Affected: IC 4-23-5.5-14; IC 13-11-2; IC 13-14-12-1; IC 13-20-17.7;
IC 13-20-22-2.

Environmental law. Requires manufacturers of motor vehicles offered for sale in Indiana to develop and implement a plan to remove, collect, recover, and recycle or dispose of certain mercury switches from end of life vehicles. Exempts from mercury switch plan development requirements motor vehicle manufacturers that have never installed mercury switches in their motor vehicles. Requires the Indiana department of environmental management (IDEM) to allow a public comment period on a plan of at least 30 days, and to act on the plan within 120 days. Requires motor vehicle recyclers to remove all mercury switches from end of life vehicles. Provides that motor vehicle recyclers include automotive salvage recyclers, automobile scrapyards, hulk crushers, scrap metal processors, and vehicle disposal facilities. Provides that mercury switch removal requirements take effect 30 days after IDEM approves a plan and expire the earlier of July 1, 2016, or the date a national mercury switch recovery program takes effect. Provides for a payment out of the solid waste management fund (SWMF) to a motor vehicle recycler for each mercury switch removed: (1) in an amount of at least \$1 and not more than \$5 as determined by the IDEM commissioner; and (2) to the extent that the commissioner makes money available from the SWMF for that purpose. Allows money to be redirected to the SWMF for that purpose from the Indiana recycling promotion and assistance fund and the environmental management special fund (EMSF). Allows any person to contribute or assign assets to the solid waste management fund to be used by IDEM to make payments for mercury switches. Requires IDEM to report information on mercury switch removal to the legislative council and the environmental quality service council. **Effective:** July 1, 2006.

DIGEST OF HEA 1117

Author(s): Wolkins, Mahern

Sponsor(s): Gard, Hume

Citations Affected: IC 9-13; IC 13-11; IC 13-20; IC 36-2; IC 36-9.

Environmental law. Eliminates the interagency groundwater task force and the municipal waste collection and transportation vehicle registration program operated by the department of environmental management. Changes reporting requirements for a person transporting solid waste in a vehicle to a final disposal facility in Indiana for disposal. Makes it permissive rather than mandatory for the solid waste management board to adopt rules imposing a fee on the disposal or incineration in a final disposal facility in Indiana of solid waste generated outside Indiana. Allows a county without zoning or a municipality in the county to enter into a host agreement. With respect to a landfill or waste site located in a county without zoning for which a construction permit was issued after March 1, 2006, and for which a host agreement has not been entered into: (1) allows the county fiscal body to establish a disposal fee that does not exceed \$2.50 per ton; and (2) allows use of the revenue only for infrastructure related to the landfill. Applies the restriction that a waste disposal facility financed by Indianapolis must accept waste regardless of whether the waste was collected by the city only if the

financing occurs after the term of the current Indianapolis financing. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 146

Author(s): Gard

Sponsor(s): Wolkins

Citations Affected: IC 13; noncode.

Property transfer disclosure form. Repeals the statute that prescribes the form of the disclosure document for transfers under the responsible property transfer law. Directs the department of environmental management to prescribe a form for that purpose. Specifies the type of information that must be elicited in the form. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 234

Author(s): Gard

Sponsor(s): Wolkins, Dvorak

Citations Affected: IC 4-21.5; IC 4-22; IC 13-11; IC 13-14; IC 13-27; noncode.

Environmental rules and enforcement. Establishes requirements in environmental rulemaking for disclosure of the availability of technical assistance programs and the identity of and contact information for the department of environmental management's ombudsmen and small business regulatory coordinator. States certain notice requirements for environmental rulemaking in terms of state restrictions or requirements: (1) that are more stringent than federal restrictions or requirements; or (2) that apply in a subject area where federal law does not impose restrictions or requirements. Allows for the establishment of environmental performance based programs and authorizes the adoption of rules to implement the programs. Provides that a determination of status as a member or participant in a program is not subject to the administrative orders and procedures act. Establishes a special procedure for the water pollution control board to adopt rules to establish new water quality standards for certain communities served by combined sewers. Extends the expiration date of noncode sections that state the required level of protection of certain waters of the state and that direct the water pollution control board to amend certain water quality rules and to make certain water use category determinations. Requires the environmental quality service council to study and make findings and recommendations concerning the positive and negative aspects of enacting legislation that would prohibit environmental rules from being more stringent than corresponding provisions of federal law. **Effective:** Upon passage; July 1, 2006.

TITLE 14: NATURAL AND CULTURAL RESOURCES

DIGEST OF HEA 1138

Author(s): Bell, Bishoff, Ulmer, Goodin

Sponsor(s): Weatherwax, Lewis, Dillon

Citations Affected: IC 14-22; noncode.

Hunting and lifetime license trust fund. Authorizes the director of the department of natural resources, with the approval of the natural resources commission and the budget agency, and after review by the budget committee, to use money in the lifetime hunting,

fishing, and trapping license trust fund to acquire property to be used for hunting and fishing. Allows the director to designate free hunting days for youth hunters. Reduces the minimum license fee to take an extra deer. Makes an appropriation. **Effective:** July 1, 2005 (retroactive); July 1, 2006.

DIGEST OF SEA 77

Author(s): Heinold

Sponsor(s): Heim

Citations Affected: IC 14-22.

Shooting preserves. Prohibits establishing a shooting preserve within one mile (rather than five miles) of a state owned game refuge or state public hunting ground. **Effective:** July 1, 2006.

DIGEST OF SEA 157

Author(s): Lewis, Weatherwax

Sponsor(s): Hoffman, Bischoff

Citations Affected: IC 14-9; IC 14-10; IC 14-21; IC 14-25; noncode.

Natural resources advisory councils. Establishes a single advisory council to serve the bureau of water and resource regulation and the bureau of lands and cultural resources. (Current law creates a separate advisory council for each bureau.) Removes per diem for advisory council members. Requires the advisory council to meet at least once every two months (rather than quarterly). Repeals the requirements of a conservancy district board of directors in Lake County. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 253

Author(s): Weatherwax

Sponsor(s): Hoffman, Bischoff

Citations Affected: IC 4-33-4-19; IC 14-25-10-4; IC 14-26-2-23; IC 14-26-2-6; IC 14-26-2-9.

Activities along shorelines. Requires that a person who performs certain activities concerning water levels, shorelines, and lake beds along a lake or within ten feet of a lake obtain a permit from the department of natural resources. Directs the natural resources commission to adopt rules. Makes conforming changes. Repeals superseded laws concerning permits to change water levels, shorelines, and lake beds. **Effective:** July 1, 2006.

DIGEST OF SEA 354

Author(s): Weatherwax, Kruse

Sponsor(s): Ulmer, McClain, Goodin, Denbo

Citations Affected: IC 6-1.1; IC 14-12; IC 14-23; noncode.

Forestry issues. Allows land to be classified as wildlands for purposes of property taxation. Requires a classified forest plantation to have at least 400 trees per acre. Requires a classified native forest land to have at least 1,000 trees per acre. Removes the requirement that certain open areas must be excluded from the classified land. Prohibits certain nontimber crops from being cultivated on classified land. Establishes procedures and requirements for revised applications for classified lands. Establishes penalties for withdrawal from the classified land program. Provides that environmental impact

statements do not apply to forestry management practices of the division of forestry. Establishes the forest restoration fund. Amends the definition of "merchantable timber". Provides that a county legislative body may allow more than \$1,000 to be distributed to volunteer fire departments from timber sales. Repeals: (1) provisions concerning assessment of classified lands; (2) the assessment of certain wildlife habitats; and (3) the prohibition of certain reclamation sites from enrolling in the classified land program. Transfers land classified as wildlife habitats to land classified as wildlands. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 369

Author(s): R. Young, Gard, Zakas
Sponsor(s): Wolkins, Dvorak
Citations Affected: IC 14-8; IC 14-25; noncode.

Drought planning. Creates a ten member water shortage task force to develop and implement an updated water shortage plan and to address other surface and ground water issues. Provides that appointments to the task force are made by the director of the department of natural resources ("DNR"), and requires DNR to staff the task force. Requires certain state agencies to designate a representative to advise the task force. Permits the director of DNR to invite representatives of other state and federal agencies to advise the task force. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 373

Author(s): Mishler, Smith, Sipes
Sponsor(s): Foley, Summers
Citations Affected: IC 12-14.

Payments for funeral and burial expenses. Requires the division of family resources to pay funeral director and cemetery expenses incurred for an individual receiving or certified to receive certain public assistance at the time of death. Provides that the division has a preferred claim against a decedent's estate that has sufficient assets to pay the funeral director and cemetery expenses. Increases the amount contributed from friends, relatives, and the decedent's estate that the division may not consider in determining the amount to be paid for the funeral director or cemetery expenses. **Effective:** July 1, 2006.

TITLE 15: AGRICULTURE AND ANIMALS

DIGEST OF HEA 1022

Author(s): Ruppel, Pond, Bischoff, Goodin
Sponsor(s): Merritt, Ford, Lewis, Craycraft
Citations Affected: IC 15-1.5; noncode.

State fair commission. Authorizes the chairman of the state fair advisory committee or a member of the committee designated by the chairman to serve as an ex officio nonvoting member of the state fair commission (commission). Provides that the term of: (1) certain members of the commission begins October 1 and expires September 30 of the fourth year following the appointment; and (2) a member currently serving on the commission is extended for an additional three months. **Effective:** Upon passage.

DIGEST OF HEA 1065

Author(s): Gutwein, Friend, Robertson, Grubb

Sponsor(s): Heinold, Nugent

Citations Affected: IC 15-3.

Pesticide application. Amends the pesticide law and the pesticide use and application law as follows: (1) Provides that \$10 of the annual fee for registering pesticides be used by the office of Purdue pesticide programs for education about pesticides. (2) Increases the annual fee for registering pesticides from \$75 to \$170. (3) Increases the late fee for annual registration of pesticides from \$75 to \$170. (4) Increases the fee for a pesticide business license from \$30 to \$45. (5) Increases the annual fee for an applicator license from \$30 to \$45. (6) Increases the annual fee for registration as a pesticide consultant from \$30 to \$45. (7) Increases the fee for certification as a private applicator from \$10 to \$20. (8) Increases the annual fee for registration as a pesticide dealer from \$30 to \$45. (9) Provides that certain fees currently distributed to Purdue University agriculture programs be used for expenses of the state chemist in carrying out the pesticides law and the pesticide use and application law. (10) Provides that money collected for civil penalties be used by the office of Purdue pesticide programs instead of agricultural extension. (11) Other changes updating the pesticide law. **Effective:** July 1, 2006.

DIGEST OF HEA 1418

Author(s): Ayres, Gutwein, Kuzman

Sponsor(s): Heinold, Landske, Lanane

Citations Affected: IC 15-5.

Kennel licenses. Requires inspection of a major kennel before a township assessor issues a license. **Effective:** July 1, 2006.

DIGEST OF SEA 87

Author(s): Jackman, R. Young, Gard

Sponsor(s): Gutwein, Grubb

Citations Affected: IC 4-4; IC 4-12; IC 4-23; IC 5-29; IC 15-9.

Energy, agriculture, and energy development. Allows the office of the lieutenant governor to adopt rules to carry out the office's duties relating to energy policy, the center for coal technology research, and the recycling and energy development board. Changes the name of the office of rural affairs to the office of community and rural affairs and makes conforming changes. Allows the office of community and rural affairs and the department of agriculture to adopt rules. Creates an advisory board for the office of community and rural affairs. Creates the rural economic development fund. Repeals the rural development administration fund and the rural development council fund, and transfers the balances of the funds to the rural economic development fund. Removes the requirement that a member of the tourism council represents a rural community and changes the requirement for a quorum for the council. Repeals the rural development council, and repeals the requirement that a member of the council is a member of the tobacco farmers and rural community impact fund advisory board.

Effective: Upon passage.

TITLE 16: HEALTH

DIGEST OF HEA 1106

Author(s): Crouch, T.Brown, C.Brown, Porter

Sponsor(s): Becker, Breaux

Citations Affected: IC 16-18; IC 16-31; IC 34-30.

Automatic external defibrillators. Allows certain persons who provides emergency medical services to use an automated external defibrillator without requiring a certificate. Removes: (1) the use of an automatic or semiautomatic defibrillator from the definition of basic life support; and (2) the requirement that a person or entity that acquires a defibrillator ensure that the users have completed certain courses and have enlisted a physician for medical direction. **Effective:** July 1, 2006.

DIGEST OF HEA 1235

Author(s): Ruppel, Welch

Sponsor(s): Miller, Breaux, Wyss, Sipes

Citations Affected: IC 16-18-2; IC 16-21-7-4; IC 16-22-8-31; IC 16-41-9;
IC 16-42-5-4; IC 34-6-2-55; IC 34-30-13.5.

Isolation, quarantine, and health matters. Establishes the procedure for a public health authority to obtain or issue an order to restrict the movement of an individual in the least restrictive manner when there is evidence that the individual has been exposed to a communicable disease, and requires a public health authority to distribute certain information to the public. Prohibits a public health authority from prohibiting a person from possessing a firearm unless the person is in a mass quarantine location, and prohibits the removal of a firearm from a person's home. Establishes certain procedures concerning immunizations. Provides that a person, facility, or other location that meets certain criteria is immune from civil liability resulting from an act or omission in providing health care services during an event that is declared a disaster emergency, even if the services were provided before or after the disaster emergency declaration. Makes it a Class A misdemeanor to violate the conditions of quarantine or isolation. Provides an exemption to food sanitation law for specified organizations under certain circumstances until January 1, 2008. Repeals superseded provisions concerning the isolation of certain individuals. **Effective:** July 1, 2006.

DIGEST OF HEA 1395

Author(s): Buell, Summers

Sponsor(s): Miller, Breaux

Citations Affected: IC 16-22; IC 33-36; IC 36-1; IC 36-7.

Marion County health and hospital corporation. Requires a majority vote of the health and hospital corporation (corporation) board to take final action. (Current law requires a majority vote of the board members who are present.) Requires a memorandum to be prepared for the corporation board's meetings. Removes the requirement that the corporation record the vote of items that affect private rights. Amends the publishing requirements before a proposed ordinance of the corporation is adopted. Establishes requirements for a change of judge in civil enforcement actions. Allows the corporation to establish a charitable foundation and nonprofit corporations.

Allows employees and contractors of the corporation to enter property that is in violation of an ordinance. Allows the enforcement authority to order removal of a public health hazard. Repeals the requirement that the corporation's schedule of ordinance violations be approved by the city-county legislative body. **Effective:** July 1, 2006.

DIGEST OF SEA 161

Author(s): Miller

Sponsor(s): T. Brown, C. Brown

Citations Affected: IC 16-29; noncode.

Moratorium on comprehensive care beds. Imposes a moratorium on the construction or addition of comprehensive care beds through June 30, 2007, with certain exceptions.

Effective: July 1, 2006.

DIGEST OF SEA 202

Author(s): Riegsecker

Sponsor(s): T.Brown, Budak, C.Brown

Citations Affected: IC 16-42; IC 25-26.

Pharmacy and wholesale drug distributor matters. Conference committee report for ESB 202. Allows a mechanical device that dispenses drugs to be used at certain remote locations and health care facilities. Removes authority for pharmacist extern programs. Adds persons who are allowed to be pharmacist interns. Changes references from the Foreign Pharmacy Graduate Equivalency Examination to the Foreign Pharmacy Graduate Examination Committee Certificate. Removes the practical examination requirement for certain pharmacists who are licensed in another jurisdiction. Provides that a person who has not renewed a pharmacist license within seven years must apply for a new license. Allows certain hospitals to operate Type II pharmacies in approved locations near the licensed area. Prohibits licensing a pharmacy in a residence. Authorizes the board of pharmacy (board) to temporarily suspend certain statutes or administrative rules that would prevent, hinder, or delay the appropriate delivery of pharmaceutical care during a state of emergency declared by the governor or the President of the United States. Provides that companies that only manufacture or distribute medical gases are not wholesale drug distributors or manufacturers. Adds and amends definitions concerning wholesale drug distributors. Allows the board to appoint a designee to inspect wholesale distribution operations. Requires a person seeking a wholesale drug distributor license to provide the board with a criminal history and financial background checks. Requires a record keeping pedigree for certain legend drugs that leave the normal chain of custody. Removes the requirement that drug distributors have: (1) a continuous quality improvement system; and (2) policies concerning certain drugs that may be returned. Requires that certain wholesale drug accreditation bodies that have an agreement with the board review accreditation denials. Allows the board to grant reciprocity to out of state home medical equipment service providers. Makes certain other changes, including conforming and technical changes. Repeals provisions concerning: (1) temporary pharmacist licenses; (2) qualifications to be an authorized wholesale drug distributor; and (3) certain random authentications of pedigrees by wholesale drug distributors.

Effective: Upon passage; July 1, 2006.

DIGEST OF SEA 266

Author(s): Miller, Sipes

Sponsor(s): T.Brown, C.Brown

Citations Affected: IC 5-10-8-7.7; IC 16-40-3-2; IC 16-40-3-3; IC 27-8-14.1-4; IC 27-13-7-14.5.

Bariatric surgery. Specifies that a physician's duty to monitor a bariatric surgery patient for five years applies unless the physician is unable to locate the patient after a reasonable effort. Establishes certain topics that must be discussed with a patient before bariatric surgery. Provides that a report made by a physician to the state department of health of a death, serious side effect, or major complication of a patient who had surgical treatment for the treatment of morbid obesity shall occur two times per year and is confidential. Specifies that statistical reports compiled by the state department from the reported information are subject to public inspection. Requires six months of supervised nonsurgical treatment before health insurance, a state health care plan, or a health maintenance organization must cover surgical treatment for morbid obesity. (Current law requires 18 months of supervised nonsurgical treatment.) **Effective:** July 1, 2006.

DIGEST OF SEA 284

Author(s): Wyss, Craycraft, Delph

Sponsor(s): Ruppel, Crouch

Citations Affected: 16-18; 16-19.

Statewide trauma system. Proposed conference committee report to ESB 284. Establishes the state department of health as the lead agency for the development and implementation of a statewide trauma system, and authorizes the state department to adopt rules concerning the trauma system.

Effective: July 1, 2006.

TITLE 20: EDUCATION

DIGEST OF HEA 1006

Author(s): Noe, Stutzman, Behning

Sponsor(s): Lubbers, Drozda

Citations Affected: IC 20-27; IC 21-10; noncode.

Allocation of school resources; homeless students. Provides that a homeless student has the right to be transported to the school in which the homeless student was enrolled before becoming homeless, and provides for apportioning the costs of transportation. Allows the use of a special purpose bus or another appropriate vehicle for the transportation of homeless students. Allows school corporations to undertake certain actions to save money in nonacademic areas and reallocate the saved money to student instruction and learning. Requires the department of education and the state board of education to develop a plan to upgrade the financial management, analysis, and reporting system for school corporations and schools. **Effective:** Upon passage; July 1, 2006.

DIGEST OF HEA 1017

Author(s): Welch, T.Harris

Sponsor(s): Becker, Broden, Long

Citations Affected: IC 5-1; IC 8-1.5; IC 8-4; IC 8-6; IC 8-9.5; IC 10-18; IC 16-22; IC 20-23; IC 20-26; IC 20-47; IC 23-4; IC 23-14; IC 32-24; IC 36-9; IC 36-10; IC 36-12.

Property appraisers. In certain statutes concerning the valuation of property, removes provisions requiring an appraiser to be "judicious", "reputable", or "competent". Replaces the requirement that certain appointed appraisers must be freeholders of the particular local unit in which the property is located, with the requirement that one disinterested freeholder and two disinterested licensed appraisers must be appointed. Requires that one of the disinterested licensed appraisers must reside not more than 50 miles from the property being appraised. **Effective:** July 1, 2006.

DIGEST OF HEA 1029

Author(s): Buell, Klinker Cherry, McClain

Sponsor(s): Kenley, Simpson, Meeks, Skinner

Citations Affected: IC 5-1.5; IC 6-1.1; IC 6-3; IC 20-12; noncode.

Education. Provides that the Indiana bond bank may purchase school buses for sale or lease to school corporations. Relaxes certain restrictions on a school corporation when the school corporation seeks to buy or lease a school bus from the Indiana bond bank. Provides a credit against the adjusted gross income tax liability of: (1) an individual; or (2) a married couple; for contributions to an Indiana college choice 529 investment plan in the amount of 20% of the contributions made by the individual or married couple during the taxable year, to a maximum of \$1,000. Provides that certain installment contracts entered into by state universities are exempt from certain requirements governing bond issues. Permits certain bonds issued by Purdue University for deferred repair and rehabilitation expenses to be issued without the prior approval of the general assembly. Permits refunding bonds to be issued without the approval of the state budget committee and the governor. Authorizes Indiana University and Purdue University to issue revenue bonds for facilities if: (1) the facilities are at the West Lafayette, Indianapolis, or Bloomington campuses; (2) the facilities are used for clinical, medical, scientific, engineering, or other similar research purposes; and (3) revenue will be available in an amount at least equal to debt service for the bonds. Prohibits the universities from paying the debt service requirements and maintenance expenses of the research facilities from student fees or money appropriated by the general assembly. Gives legislative approval to the following projects: (1) Indiana State University for bonding for a student recreation center project; (2) Ball State University to issue bonds for renovation and expansion of a recreation center; (3) the University of Southern Indiana to issue bonds for a university center expansion. Authorizes a state educational institution to set tuition and fee rates for certain students. **Effective:** Upon passage; July 1, 2006; January 1, 2007.

DIGEST OF HEA 1240

Author(s): Behning, Heim, V.Smith, Messer

Sponsor(s): Lubbers, Riegsecker

Citations Affected: IC 20-32-5-20.

Statewide testing program; mentor teacher stipends. Requires the department of education and the state board of education, before November 1, 2006, to review the

current statewide student testing program and develop a long-term plan for student testing. Sets forth objectives for the program review and plan development. Provides that mentor teacher stipends may be paid from certain appropriations to the department of education or from private funds donated to the department. Repeals a provision requiring the grading of certain parts of the ISTEP assessment to take place in Indiana. **Effective:** Upon passage.

DIGEST OF HEA 1257

Author(s): Bell, Porter, T.Harris, Behning

Sponsor(s): Waltz, Breaux

Citations Affected: IC 20-12.

Postsecondary proprietary education. Raises the amounts of surety bonds required from postsecondary proprietary educational institutions, and increases the mature balance in the career college student assurance fund. Establishes minimum standards for the owners and chief administrators of postsecondary proprietary educational institutions. **Effective:** July 1, 2006.

DIGEST OF HEA 1347

Author(s): Messer, Behning, Heim, Porter

Sponsor(s): Lubbers, Rogers, Miller, Sipes

Citations Affected: IC 20-12; IC 20-19; IC 20-20; IC 20-30; IC 20-32; IC 20-33; IC 23-13; noncode.

Various education matters. Adds financial hardship and illness to the reasons a student may withdraw from high school before graduating. Requires the following information to be included in a school's annual report: (1) The number of student work permits revoked. (2) The number of student driver's licenses revoked. (3) The number of students suspended for any reason. (4) The number of students who have not advanced to grade 10 due to a lack of completed credits. Requires an annual review of a student's career plan and requires remediation programs if needed. Allows an excused absence for a student who attends an educationally related nonclassroom activity, and requires each school corporation to: (1) maintain a record of such activities; and (2) report the information to the department of education annually. Allows Ivy Tech Community College of Indiana and Vincennes University to offer fast track to college programs in which a qualified student may earn a high school diploma while also earning credits for a certificate program, an associate's or a baccalaureate degree. Allows other state educational institutions to establish a fast track to college program. Requires a school corporation to pay the tuition for high school diploma courses taken by certain students who are less than 19 years of age. Requires each state supported college and university to report annually to the commission for higher education and the legislative council: (1) financial aid availability; and (2) attendance and graduation rates; of students who are Indiana residents. Allows a student to graduate from high school without passing the graduation examination, subject to certain requirements. Requires the number of students: (1) receiving international baccalaureate degrees; and (2) participating in a school flex program; to be included in a school's annual report. Establishes the double up for college dual high school-college credit program. Requires high schools to offer at least two dual credit and advanced placement courses each year to high school students who qualify to

enroll in the courses. Requires a student who seeks to withdraw from school before reaching 18 years of age or graduating to sign a written acknowledgment that the student and the student's parent or guardian understand that withdrawing from school is likely to reduce the student's future earnings and increase the student's likelihood of being unemployed in the future. Requires the department of education to develop guidelines for a school corporation to follow in implementing the written acknowledgment. **Effective:** Upon passage; July 1, 2005 (retroactive); July 1, 2006.

DIGEST OF SEA 39

Author(s): Ford, Steele, Breaux, Bowser

Sponsor(s): Thomas, Duncan, Summers, Kersey

Citations Affected: IC 20-26; IC 31-34; IC 31-37.

Legal settlement in a school corporation. Provides that if a court order grants a parent custody of a student, the parent granted physical custody (or the student if the student is at least 18 years of age) may elect not later than 14 days before the first student day of the school year whether the student will have legal settlement in the school corporation in which the student's mother resides or in which the student's father resides. Provides that: (1) the election may be made only on a yearly basis; and (2) the student or parent who makes the election may not be charged transfer tuition. **Effective:** July 1, 2006.

DIGEST OF SEA 111

Author(s): Becker, Miller, Broden, Lawson, Breaux, Delph, Kruse

Sponsor(s): T. Brown, C. Brown, Budak

Citations Affected: IC 20-26; IC 20-30; noncode.

Student nutrition and physical activity. Lowers the percentage in the definition of "qualifying school building" from 25% to 15% beginning July 1, 2007 for purposes of the school breakfast and lunch programs. Requires school boards to establish a coordinated school health advisory council to develop a local wellness policy that complies with certain federal requirements. Requires the department of education to provide information concerning health, nutrition, and physical activity. Establishes requirements applying to food and beverage items that are available for sale to students outside the federal school meal programs, including a requirement that a certain percentage of the food and beverage items qualify as better choices. Provides that the requirements do not apply after school hours or to fundraisers. Requires daily physical activity for elementary school students in public schools, with certain exceptions. Allows a school to continue a vending machine contract in existence before the passage of this bill. **Effective:** July 1, 2006.

DIGEST OF SEA 112

Author(s): Reigsecker

Sponsor(s): Ripley, Klinker, T.Brown, C.Brown, Woodruff

Citations Affected: IC 2-5; IC 5-10; IC 12-7; IC 12-9; IC 12-12.7; IC 12-17; IC 16-38; IC 20-12; IC 20-35; IC 27-8.

Transfer of first steps program. Creates the bureau of child development services within the division of disability, aging, and rehabilitative services. Places the infants and toddlers with disabilities program (first steps) under the bureau of child development

services. Reorganizes language regarding the copayment schedule and copayment requirements. Specifies the health records to which the division has access in administering first steps. Requires families participating in first steps to consent to allow the division to bill third party payors. Requires the division to waive a family's copayment in any month for which the division receives payment from the family's health insurance coverage. Makes conforming amendments, including a repeal of current provisions concerning first steps. **Effective:** Upon passage.

DIGEST OF SEA 172

Author(s): Riegsecker

Sponsor(s): Ripley, Klinker, Woodruff, Wolorski, C.Brown, T.Brown

Citations Affected: IC 20-28.

Teacher shortages. Conference committee report for ESB 172. Teacher shortages. Allows the governing body of a school corporation or an accredited nonpublic school to hire an individual who is in the process of obtaining a teacher's license under the transition to teaching program, if the individual: (1) is obtaining a license in a subject area; or (2) will be teaching in a school that is located in a school corporation; in which there is an insufficient supply of licensed teachers, as designated by the state board of education. Requires the superintendent of a school corporation to make a determination that either no fully licensed and highly qualified teacher is available or that the transition to teaching program participant is the best qualified for the position before hiring the program participant. Provides that a program participant who is hired to teach receives a transition to teaching permit, and enters into a regular or temporary teacher's contract. Requires the state board to review the designation of a subject area or school corporation as having an insufficient supply of licensed teachers every two years. **Effective:** July 1, 2006.

DIGEST OF SEA 310

Author(s): Alting, Kenley, Lubbers

Sponsor(s): Behning, T. Brown

Citations Affected: IC 20-36.

Alternate methods for earning high school credits. Allows a student to demonstrate proficiency and receive credits in a course or subject area required for high school graduation or for an academic honors diploma in a manner other than by classroom work. **Effective:** July 1, 2006.

TITLE 22: LABOR AND INDUSTRIAL SAFETY

DIGEST OF HEA 1099

Author(s): Frizzell, Crooks

Sponsor(s): Weatherwax, Lewis

Citations Affected: IC 22-11-14; IC 22-11-14.5-2; IC 31-37-2-7; IC 35-47-7.

Fireworks sales, discharge, public safety fees, and injuries. Authorizes the use of consumer fireworks on the property of the purchaser, on the property of another who has given permission for the use, and at special discharge locations. Authorizes the fire prevention and building safety commission to adopt rules specifying the conditions under which certain fire chiefs may grant a permit to a person to sponsor a special fireworks

discharge location. Establishes requirements for the tent, structure, or temporary stand from which certain fireworks may be sold. Establishes annual registration fees for the retail sale of consumer fireworks that must be paid before the issuance of a certificate of compliance to a retailer. Removes the requirement that a purchaser of consumer fireworks provide a written assurance that the consumer fireworks will be shipped out of Indiana within five days of purchase. Establishes various penalties for: (1) the ignition, discharge, possession, or use of certain fireworks under certain conditions or at other than certain locations; or (2) the purchase or use of fireworks by a person less than 18 years of age. Requires an individual to be at least 18 years of age to sell consumer fireworks, and at least 16 years of age to sell certain specified fireworks. Sets times during the day when a person may use certain fireworks. Prohibits the sale of fireworks at retail from a motor vehicle. (Current law prohibits the sale of retail fireworks from a truck, van, or automobile.) Establishes a public safety fee of 5% on the retail sale of fireworks. Provides that the fee is to be collected by the department of state revenue and deposited in the state general fund. Specifies that a child commits a delinquent act if the child commits certain fireworks violations. Requires certain persons that treat a person for an injury that the practitioner or administrator identifies as resulting from fireworks or pyrotechnics to report the injury to the state department of health. Provides that the report is confidential. Requires the department of homeland security to report to the budget committee on the feasibility of establishing a regional program to provide certain training. Makes an appropriation from public safety fees to the department of homeland security for: (1) certain training programs; and (2) under certain circumstances, certain disaster related costs. Repeals an expired section of the Indiana Code. Repeals and relocates a definition. Makes conforming amendments. Makes technical corrections. **Effective:** Upon passage; May 1, 2006; June 1, 2006.

DIGEST OF HEA 1267

Author(s): Borrer, Lehe, Torr

Sponsor(s): Harrison

Citations Affected: IC 20-33; IC 22-1.

Employment certificates for children. Sets procedure for issuance of an employment certificate and specifies format of the employment certificate. Provides that a child may have more than one employment certificate at a time and specifies that if so, is subject to civil penalties from the department of labor if the child works more than the allowable number of: (1) hours in a week; or (2) days in a week. Provides that an employer of a child who holds more than one employment certificate is responsible only for excess hours or days of the week violations for the employment of the child with the employer. Makes technical corrections. **Effective:** June 1, 2006; July 1, 2006.

DIGEST OF HEA 1307

Author(s): Torr

Sponsor(s): Harrison, Kruse, Craycraft

Citations Affected: IC 22-3.

Worker's compensation. Establishes a schedule of attorney's fees for worker's compensation and occupational disease claims. Provides that the burden of proof of the element of a claim is on the employee, and that proof by the employee does not create a

presumption in favor of the employee with regard to another element of the claim. Provides for increases in the: (1) average weekly wage used to calculate worker's compensation and occupational disease benefits; (2) schedule for awarding compensation for the degree of permanent partial impairment determined by the board; and (3) maximum compensation that may be paid for personal injury by accident or disablement or occupational disease. Deletes an exception to and revises the statute of limitations for the making of a modified award of worker's compensation and occupational disease benefits. Provides that a member of the worker's compensation board may not have other employment inconsistent with the discharge of the member's duties. Revises the computation for the assessment for the second injury fund. Repeals language related to the second injury fund. Makes technical corrections. **Effective:** Upon passage; July 1, 2006.

DIGEST OF HEA 1420

Author(s): T.Brown, Friend
Sponsor(s): Gard, M.Young, Bowser
Citations Affected: IC 22-5.

Employee tobacco use. Allows an employer to implement financial incentives related to employer provided health benefits to reduce employee tobacco use. **Effective:** July 1, 2006.

DIGEST OF SEA 81

Author(s): R. Meeks
Sponsor(s): Stutzman
Citations Affected: IC 22-12; noncode.

Bungee jump facility inspection. Provides that a bungee jump facility is an amusement device subject to regulation under rules adopted by the amusement device safety board and subject to periodic inspection by the division of fire and building safety. Requires the adoption of temporary rules regulating bungee jump facilities to be in effect until permanent rules are adopted. **Effective:** Upon passage.

DIGEST OF SEA 321

Author(s): Kruse, Harrison
Sponsor(s): Torr
Citations Affected: IC 22-4.

Unemployment insurance. Conference committee report for ESB 321. Transfers numerous rulemaking and administrative duties of the unemployment insurance board (board) to the department of workforce development (department). Reduces from 150 to 30 days the time within which a successor employer is required to file an application to assume a predecessor employer's experience account. Establishes civil penalties for an individual who fails to disclose or falsifies information to receive a benefit. Provides additional circumstances in which an administrative law judge or the review board may hold hearings by telephone. Provides that the department may not disclose to an employer the current address or location of a claimant who is the victim of family or domestic violence, and that an employer or its agent that is aware that a claim has been made shall keep that information confidential. Repeals and restates provisions concerning

an individual's failure to disclose earnings and witness fees. Authorizes the department to allocate not more than \$2 million dollars annually from the special employment and training services fund to establish reemployment training accounts for dislocated department employees. Repeals language: (1) concerning board rules; and (2) requiring the board to print and distribute certain material. Makes technical corrections. Makes conforming amendments. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 370

Author(s): Kruse, Lubbers, Delph, Howard

Sponsor(s): Torr, Borror

Citations Affected: IC 4-21.5; IC 4-23; IC 12-14; IC 22-4; IC 22-4.1; IC 22-4.5; noncode.

Workforce development system. Requires the Indiana economic development corporation to establish a regional workforce system of not more than 11 regional workforce areas (area) with oversight by a regional workforce board (board). Establishes the criteria and selection process for board members. Renames the local boards "workforce investment boards", and provides that the duties of the regional workforce boards include providing support and guidance to workforce investment boards. Authorizes the boards to establish, using a competitive procurement process and with a workforce investment board's consent, agreements for support, oversight, and management services in the regional workforce area. Renames the state human resource investment council as the state workforce innovation council (council), designates the state superintendent of public instruction or the superintendent's designee as a member of the council, and removes the requirement that the budget agency serve as the council's fiscal agent. Requires staggered terms for council members. Allows a member to participate in a meeting of the council by simultaneous communication under certain circumstances. Provides that the council is subject to the allotment system administered by the budget agency and financial oversight by the office of management and budget. Renames workforce development centers the one stop centers, requires that the centers be certified by the council, and repeals a requirement that certain providers offer services at the centers and restrictions on center funding sources. Repeals provisions concerning: (1) financial assistance for job training; (2) the state plan; (3) the establishment of workforce investment areas; (4) the one stop system and one stop partners; (5) the powers and duties of regional board and one stop partners; and (6) fiscal authority for youth, adult, and dislocated worker funds under Title 1 of the Workforce Investment Act. Removes obsolete references. **Effective:** Upon passage.

TITLE 23: BUSINESS AND OTHER ASSOCIATIONS DIGEST OF HEA 1306

Author(s): Bright, Thomas

Sponsor(s): Long, Lanane

Citations Affected: IC 23-1; IC 23-4; IC 23-16; IC 23-17; IC 23-18.

Various corporate law matters. Changes the name of the corporate law survey commission to the business law survey commission. Permits the execution of certain documents by an attorney in fact. Provides that distributions by a corporation or limited liability company do not include reasonable compensation, retirement payments, or

guaranty payments. Provides for conversion of certain domestic or foreign entities to certain other entities. Specifies the rights of access of members to records or information of a limited liability company. Specifies the procedure for revocation of dissolution by a limited liability company. **Effective:** July 1, 2006.

TITLE 24: TRADE REGULATIONS, CONSUMER SALES AND CREDIT

DIGEST OF SEA 11

Author(s): Drozda

Sponsor(s): Burton, Messer, Crooks

Citations Affected: IC 23-2; IC 27-1.

Various securities matters. Makes various amendments to the law concerning securities regulation. Provides that transactions exempt from certain security registration requirements include the offer or sale of securities involving certain mergers or share exchanges that occur within or outside the United States. (Current law exempts the offer or sale of securities involving certain mergers or share exchanges that occur within the United States.) Changes the method of selection of home and branch offices of registered broker-dealers for completion of compliance reports. Provides that: (1) the chief deputy commissioner and each designated attorney or investigator are police officers of the state and members of the enforcement department of the securities division; and (2) certain violations may be brought in the county where the violation allegedly occurred or Marion County. Requires the securities commissioner to send a certified copy of a final order suspending or revoking a person's license or an order to cease and desist to the insurance commissioner who may institute proceedings to revoke or suspend the person's insurance producer license. Changes the: (1) time a franchisor must renew a registration from 30 days before expiration of the registration to not later than the date the registration expires; and (2) time an employer who has an employee conducting origination activities must register from 15 days to five days after the employee first conducts origination activities. Provides that: (1) the securities commissioner may provide certain interpretive opinions or issue determinations under the law concerning loan brokers; and (2) certain individuals under the law concerning loan brokers may request an appeal from a denial of an application or a final order by the securities commissioner. Requires that a person who does not comply with an order of the court or judge under the law concerning loan brokers be punished for contempt of court. **Effective:** July 1, 2006.

DIGEST OF HEA 1101

Author(s): Walorski, Ruppel, Noe, Tincher

Sponsor(s): Hershman, Steele

Citations Affected: IC 4-33; IC 16-22; IC 24-4; IC 24-4.9; IC 35-32; IC 35-41; IC 35-43; IC 35-50; noncode.

Security breach disclosure and identity deception. Provides that a person that owns or licenses certain unredacted or unencrypted personal information concerning Indiana residents that is contained in a computerized data base must disclose to those Indiana residents without unreasonable delay a security breach in the computerized data base (including the unauthorized acquisition of computerized data that have been transferred to another medium) if the security breach could cause the Indiana residents to become

victims of identity theft, identity deception, or fraud. Requires a database owner who is required to make a disclosure concerning a security breach to more than 1,000 persons to notify each credit reporting bureau of the security breach. Specifies that a person that maintains a computer data base but does not own or license the personal information contained in the data base must notify the data base owner if there is a security breach in the data base. Provides that a data base owner with a privacy plan drafted to comply with certain federal statutes may comply with that plan instead of these provisions if that plan meets the federal requirements, and permits a data base owner with its own privacy plan to comply with its own plan instead of these provisions if its plan is at least as stringent as these provisions or a plan that complies with certain federal statutes. Authorizes the attorney general to bring an action to enforce the disclosure requirements. Makes certain information that relates to a license application submitted to the Indiana gaming commission confidential. Provides that a person who disposes of a customer's unencrypted, unredacted personal information without first shredding, incinerating, mutilating, or erasing the personal information commits a Class C infraction. Enhances the offense to a Class A infraction for a second or subsequent offense, or if the person has unlawfully disposed of the personal information of more than 100 customers. Includes as personal information certain information collected as part of a license or permit application. Provides that a person who unlawfully obtains the identifying information of a deceased person commits identity deception. Makes identity deception a Class C felony if a person unlawfully obtains the identities of more than 100 persons or the fair market value of the fraud or harm caused by the identity theft is at least \$50,000. Makes possession of a card skimming device with the intent to commit identity deception or fraud a Class D felony and a Class C felony if the device is possessed with the intent to commit terroristic deception. Permits a court to enter a restitution order requiring a person convicted of identity deception to reimburse the victim for additional expenses that arise or are discovered after sentencing or after the entry of a restitution order. Grants a court a five year period in which to order a person convicted of identity deception to pay additional restitution. Provides that a person who commits the offense of identity deception may be tried in any county in which any element of the offense occurs. Provides that jurisdiction for cases of identity deception lies in Indiana if the victim resides in Indiana. Imposes certain fiduciary obligations on members of the governing board of a county hospital, and specifies that if a hospital governing board has two physician members, only one physician member is required to be an active member of the medical staff of the hospital. **Effective:** July 1, 2006.

DIGEST OF HEA 1280

Author(s): Murphy, Koch, Saunders, Grubb

Sponsor(s): Ford, Steele, Lanane

Citations Affected: IC 24-4.7; IC 24-5.

Unsolicited facsimile advertisements. Provides that the transmission of an unsolicited advertisement by telephone facsimile machine is a deceptive act. Authorizes the attorney general to recover civil penalties up to \$1,500 for the transmission of an unsolicited advertisement by telephone facsimile machine. Defines "telephone facsimile machine" and "unsolicited advertisement". Deposits the civil penalties in the consumer protection division telephone solicitation fund. **Effective:** January 1, 2007.

DIGEST OF HEA 1353

Author(s): Walorski, Heim, Crooks, Thomas

Sponsor(s): Bray, Broden

Citations Affected: IC 24-2-1.

Trademarks and service marks. Conference committee report for EHB 1353.

Conforms certain provisions of the Indiana trademark act to the Model Trademark Act and repeals obsolete provisions of the Indiana Trademark Act. Specifies that a judicial or administrative interpretation of the federal Trademark Act may be considered as persuasive authority in construing provisions of the Indiana Trademark Act. **Effective:** July 1, 2006.

TITLE 25: PROFESSIONS AND OCCUPATIONS

DIGEST OF HEA 1220

Author(s): Reske, Thomas

Sponsor(s): R. Meeks, Craycraft

Citations Affected: IC 25-4; IC 25-21.5; IC 25-31; IC 25-34.1.

Professional investigation funds. Establishes fees to be assessed against registered: (1) architects and landscape architects; (2) land surveyors and land surveyors in training; and (3) professional engineers and engineering interns; at the time of issuance and renewal of certificates of registration, and requires the fees to be deposited in the investigative funds for the respective professions. Provides that the investigative fund fees for real estate brokers, salespersons, and appraisers may not exceed twenty dollars (\$20). **Effective:** Upon passage; July 1, 2006.

DIGEST OF HEA 1339

Author(s): T. Harris, Reske

Sponsor(s): Merritt, Lanane

Citations Affected: IC 25-34.1.

Real estate broker and salesperson licenses. Provides that the fee that the real estate commission is required to establish to fund the investigative fund must be at least ten dollars. (Under current law, the fee may not be more than ten dollars). Requires a licensed salesperson or real estate broker who is convicted of a crime to send a copy of the judgment of conviction to the real estate commission not more than 30 days after the date of the conviction. Provides that: (1) the real estate commission may discipline a licensed salesperson or real estate broker who is convicted of a crime that substantially relates to the practice of real estate; and (2) a certified copy of a judgment of a conviction from a court is presumptive evidence of a conviction. Provides that the amount by which the balance in the investigative fund exceeds \$750,000 at the end of the state fiscal year reverts to the state general fund. (Under current law, the amount by which the balance exceeds \$500,000 reverts to the state general fund.) Requires the attorney general and the professional licensing agency to enter into a memorandum of understanding to administer and enforce the law concerning the licensing of real estate brokers and salespersons, and provides for the memorandum to be reviewed annually by the real estate commission. Provides that a licensed salesperson or real estate broker who does not have an agency relationship with the individual with whom the licensee is working due to the existence

of a written agreement to the contrary has certain duties. Provides that if those duties are performed by another licensed salesperson or real estate broker, the other salesperson or real estate broker does not have an agency relationship with the individual as a result of performing the duties. **Effective:** July 1, 2006.

DIGEST OF SEA 201

Author(s): Riegsecker
Sponsor(s): Walorski, Ulmer, Neese
Citations Affected: IC 25-23.7.

Manufactured home installation. Allows an existing location within a mobile home community that is valid under a local ordinance to be expanded to provide support and utilities for the installation of a manufactured home in the mobile home community.

Effective: July 1, 2006.

DIGEST OF SEA 333

Author(s): Dillon, Broden
Sponsor(s): T. Harris, Crooks
Citations Affected: IC 4-1-8-1; IC 15-5-1.1-2; IC 15-5-1.1-12; IC 16-39-1-1; IC 16-41-35-29; IC 16-42; IC 20-28-1-11; IC 25-1; IC 25-4-2-13; IC 25-6.1-3-2; IC 25-7; IC 25-8; IC 25-13; IC 25-14; IC 25-15-6-4; IC 25-15-6-6; IC 25-20-1-4; IC 25-22.5-12; IC 25-23-1-19.8; IC 25-23.7-6-1; IC 25-24-3; IC 25-26; IC 25-20-1-4; IC 25-30-1-1.2; IC 25-30-1-16; IC 25-33; IC 25-34.1-9-20; IC 25-35.6-1-7.

Professional licensing. Requires a person who has failed the veterinarian examination three times to take remedial education before being allowed to retake the examination. Requires a provider who provides a patient with a contact lens prescription to comply with federal law. Establishes certain continuing education requirements that apply to all professions for which continuing education is required. Requires certain licensed professionals to provide the professional licensing agency (agency) or the state department of health with their Social Security numbers. Allows the agency or the state department of health to release Social Security numbers to testing services and state boards and professional organizations. Amends the definition of "school psychology" to include certain referrals to speech-language pathologists, audiologists, and occupational therapists. Requires the medical licensing board to establish a seven year pilot program for the training of graduates of international medical schools that have not been approved by the board. Establishes uniform professional license reinstatement requirements. Requires barbering and cosmetology schools to administer the practical examination. Removes barber health certificate requirements. Amends the definition of "cosmetology" to include certain acts performed on a person's torso. Allows the medical licensing board to establish conditions for the reactivation of a physician's license. Allows the agency to set a uniform renewal date for licensed manufactured home installers. Transfers the duties of the optometric legend drug prescription advisory committee to the optometry board. Removes the private detective licensure exemption for certain law enforcement officers. Establishes a limited scope temporary psychology permit. Requires a person who passes the real estate salesperson examination or broker examination to apply for a license within one year. Allows the issuance of a renewal license to certain speech-language pathologists who are not currently licensed. Repeals: provisions concerning

license reinstatement, temporary barber and cosmetology licenses, master cosmetologist licenses, shampoo operator licenses, and cosmetology continuing education; an expired provision concerning hearing aid dealers; and nonconforming continuing education provisions. Makes technical and conforming amendments. **Effective:** Upon passage; July 1, 2005 (retroactive); July 1, 2006.

DIGEST OF SEA 342

Author(s): Riegsecker

Sponsor(s): Messer

Citations Affected: IC 25-1; IC 34-30; IC 35-48.

Electronic prescription tracking program. Establishes the scheduled prescription electronic collection and tracking (INSPECT) program within the professional licensing agency. Moves the responsibilities of the controlled substances central repository to the INSPECT program. Provides that the administration of the INSPECT program may be contracted to an outside vendor. Permits the INSPECT program to certify who may receive information from the INSPECT program. Allows the controlled substances advisory committee (committee) to set educational standards for individuals who receive information from the INSPECT program and to identify treatment for individuals addicted to substances monitored by the INSPECT program. Provides that information concerning when certain controlled substances are dispensed is required to be transmitted to the INSPECT program within seven days after the controlled substance is dispensed. Provides immunity from civil liability for a practitioner regarding the use of certain information. Repeals definition of "central repository". Repeals language concerning expenses for the central repository. **Effective:** July 1, 2006; July 1, 2007.

TITLE 27: INSURANCE

DIGEST OF HEA 1097

Author(s): Frizzell, Budak

Sponsor(s): Miller, Lewis, Sipes

Citations Affected: IC 27-1; IC 27-17.

Discount medical card programs. Provides additional continuing education credit hours for insurance producers who take certain courses. Adds two members to the insurance producer education and continuing education advisory council. Provides for registration of discount medical card program organizations. Specifies requirements for registration and conduct of a discount medical card program organization. **Effective:** July 1, 2006.

DIGEST OF HEA 1239

Author(s): Ripley, Fry

Sponsor(s): Long, Simpson

Citations Affected: IC 27-8; noncode.

Preexisting conditions. Applies the law concerning coverage limitations for preexisting conditions under an individual policy of accident and sickness insurance to certificates of coverage issued under certain association group policies of accident and sickness insurance. Makes conforming amendments. **Effective:** July 1, 2006.

DIGEST OF HEA 1392

Author(s): Ripley

Sponsor(s): Fry

Citations Affected: IC 21-10-2-1; IC 27-1; IC 27-8-8.

Insurance matters. Amends HEA 1006-2006 concerning school corporation pooling for insurance to require creation of a trust, specify the aggregate retention and school corporation contribution levels, and maintenance of a fidelity bond. Defines "commercial policyholder" to include a business, nonprofit, or governmental entity that purchases a commercial policy. Removes certain requirements concerning commercial insurance issued by an insurer that maintains a certain rating. Changes reporting requirements for insurers concerning commercial insurance. Repeals a provision that requires an insurer that insures a public entity as an exempt commercial policyholder to maintain a certain rating. Requires a foreign or alien insurance company that provides certain surety bonds to appoint the commissioner of the department of insurance as the company's agent for service of process in certain actions. Amends the life and health insurance guaranty association (association) law. Specifies certain information concerning: (1) association coverage for Indiana residents and nonresidents insured by domestic and nondomestic insurers; (2) association accounts; (3) assessment procedures; (4) subrogation; (5) powers and duties of the association, the board of directors of the association, and the commissioner of the department of insurance with respect to the association; (6) plan of operation of the association; (7) prevention of insolvencies; (8) immunity; and (9) notice to policy owners and contract owners. Repeals and replaces provisions concerning association coverage. Allows certain members of the political subdivision catastrophic liability fund to withdraw from the fund and receive a rebate of a part of the member's previous assessments. Makes a conforming amendment. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 147

Author(s): Gard, Becker

Sponsor(s): Ripley, Pelath

Citations Affected: IC 27-8; IC 27-13.

Insurance payments to health care providers. Specifies certain requirements for an insurer or a health maintenance organization in requesting repayment or adjusting subsequent claims to obtain reimbursement for an overpaid or an underpaid claim to a health care provider. **Effective:** July 1, 2006.

DIGEST OF SEA 229

Author(s): Lubbers, Lanane, Hershman, Zakas

Sponsor(s): Turner

Citations Affected: IC 27-1.

Independent college self-insurance program. Allows independent colleges and universities to establish a trust to jointly self-insure retained risks under certain circumstances. Requires registration and regulation of such a trust by the department of insurance. **Effective:** July 1, 2006.

TITLE 28: FINANCIAL INSTITUTIONS

DIGEST OF HEA 1299

Author(s): Barton, Burton

Sponsor(s): Paul, Lanane

Citations Affected: IC 24-4.5; IC 24-4.6; IC 24-5; IC 24-7; IC 26-2; IC 28-1; IC 28-6.1; IC 28-7; IC 28-8; IC 28-10; IC 28-11; IC 28-12; IC 28-13; IC 28-14; IC 28-15; IC 35-43.

Financial institutions. Specifies that provisions of the Uniform Consumer Credit Code concerning: (1) permissible charges with respect to consumer loans; (2) required disclosures to consumers; (3) limitations on agreements and practices; and (4) enforcement actions by the department of financial institutions; apply to small loans made to Indiana residents by out-of-state creditors. Provides that certain provisions of the Uniform Consumer Credit Code that apply to a person undertaking collection of payments from, or enforcement of rights against, a debtor in a consumer loan do not apply to licensed collection agencies. Defines an "affiliate" of a financial institution. Specifies that certain minimum charges that a seller or lender may impose with respect to consumer sales or loans may be imposed only if the borrower prepays in full the sale or loan. Specifies that a person, other than a supervised financial organization, may not do either of the following without obtaining a license from the department of financial institutions (department): (1) Take assignments of consumer loans. (2) Collect payments from debtors. Makes the following changes with respect to various licenses issued by the department: (1) Allows the department to request evidence of compliance with applicable statutes at the time of application for a license, upon license renewal, or at other times determined by the director of the department (director). (2) Allows the department to deny an application for an initial license if the application is submitted on behalf of, or for the benefit of, a person who does not qualify for a license. (3) Requires a licensee to pay all reasonable costs of an investigation or examination of the licensee by the department, regardless of the number of days the investigation or examination takes. Provides that a small loan is considered paid in full upon: (1) the presentment of a check for payment from an account of the borrower; or (2) the lender's exercise of an authorization to debit the borrower's account; rather than upon actual payment by the drawee financial institution. Provides that after a borrower's fifth consecutive small loan, another small loan may not be made to the borrower within seven days after the fifth loan is paid in full. (Current law provides that another small loan may not be made within seven days after the due date of the fifth loan.) Prohibits a lender from seeking the following upon a borrower's default on a small loan: (1) Attorney's fees. (2) Treble damages. (3) Prejudgment interest. (4) Damages allowed for dishonored checks under any law other than the small loan act. Sets forth the circumstances in which a bank, trust company, savings association, or savings bank may purchase and hold life insurance. Prohibits a person from using: (1) the name of an existing mortgage lender; or (2) a name confusingly similar to that of an existing mortgage lender; in marketing materials or solicitations. Specifies that a credit agreement includes an agreement to modify a credit agreement. Specifies that a debtor in a credit agreement may assert: (1) a claim for legal or equitable relief; or (2) a defense in a claim; arising from a credit agreement only if the credit agreement is in writing and signed by the parties. (Current law does not specify that a debtor may assert a defense in a claim arising from a credit agreement only if the credit agreement is in writing and signed by the parties.) Requires the following to

comply with all state and federal money laundering laws: (1) certain financial institutions; (2) pawnbrokers; (3) money transmitters; and (4) licensed check cashers. Requires the department to: (1) investigate potential violations of state and federal money laundering laws; (2) enforce compliance with state money laundering laws; and (3) enforce compliance with federal money laundering laws or refer suspected violations to federal regulators, in accordance with federal law. Allows a bank or trust company to acquire real estate to be used: (1) partly as a branch or principal office; and (2) partly as rental property for one or more lessees. (Current law does not allow such real estate to be: (1) used as a principal office; or (2) rented to more than one lessee.) Provides that a financial institution may do business in Indiana using a name other than its official entity name. Establishes criteria for the director to use to determine whether an electronic activity is authorized as part of, or incidental to, a financial institution's business. Allows the department to appoint conservators for credit unions and corporate fiduciaries under certain circumstances. Establishes the powers and duties of a conservator. Changes the time within which a pawnbroker must request approval from the department of financial institutions to relocate or add a business location from 90 days to 30 days before the proposed relocation or addition. Provides that the director serves as an ex officio, voting member of the department. Repeals the current law governing the enforcement of sales competition. **Effective:** July 1, 2006.

DIGEST OF SEA 384

Author(s): Paul

Sponsor(s): Saunders, Hoffman

Citations Affected: IC 24-4.5; IC 24-4.6; IC 24-5; IC 24-7; IC 26-2; IC 28-1; IC 28-6.1; IC 28-7; IC 28-8; IC 28-10; IC 28-11; IC 28-12; IC 28-13; IC 28-14; IC 28-15; IC 35-43.

Financial institutions. Specifies that provisions of the Uniform Consumer Credit Code concerning: (1) permissible charges with respect to consumer loans; (2) required disclosures to consumers; (3) limitations on agreements and practices; and (4) enforcement actions by the department of financial institutions; apply to small loans made to Indiana residents by out-of-state creditors. Defines an "affiliate" of a financial institution. Specifies that certain minimum charges that a seller or lender may impose with respect to consumer sales or loans may be imposed only if the borrower prepays in full the sale or loan. Specifies that a person, other than a supervised financial organization, may not do either of the following without obtaining a license from the department of financial institutions (department): (1) Take assignments of consumer loans. (2) Collect payments from debtors. Makes the following changes with respect to various licenses issued by the department: (1) Allows the department to request evidence of compliance with applicable statutes at the time of application for a license, upon license renewal, or at other times determined by the director of the department (director). (2) Allows the department to deny an application for an initial license if the application is submitted on behalf of, or for the benefit of, a person who does not qualify for a license. (3) Requires a licensee to pay all reasonable costs of an investigation or examination of the licensee by the department, regardless of the number of days the investigation or examination takes. Provides that a small loan is considered paid in full upon: (1) the presentment of a check for payment from an account of the borrower; or (2) the lender's

exercise of an authorization to debit the borrower's account; rather than upon actual payment by the drawee financial institution. Provides that after a borrower's fifth consecutive small loan, another small loan may not be made to the borrower within seven days after the fifth loan is paid in full. (Current law provides that another small loan may not be made within seven days after the due date of the fifth loan.) Prohibits a lender from seeking the following upon a borrower's default on a small loan: (1) Attorney's fees. (2) Treble damages. (3) Prejudgment interest. (4) Damages allowed for dishonored checks under any law other than the small loan act. Prohibits a person from using: (1) the name of an existing mortgage lender; or (2) a name confusingly similar to that of an existing mortgage lender; in marketing materials or solicitations. Requires the following to comply with all state and federal money laundering laws: (1) certain financial institutions; (2) pawnbrokers; (3) money transmitters; and (4) licensed check cashers. Requires the department to: (1) investigate potential violations of state and federal money laundering laws; (2) enforce compliance with state money laundering laws; and (3) enforce compliance with federal money laundering laws or refer suspected violations to federal regulators, in accordance with federal law. Allows a bank or trust company to acquire real estate to be used: (1) partly as a branch or principal office; and (2) partly as rental property for one or more lessees. (Current law does not allow such real estate to be: (1) used as a principal office; or (2) rented to more than one lessee.) Provides that a financial institution may do business in Indiana using a name other than its official entity name. Establishes criteria for the director to use to determine whether an electronic activity is authorized as part of, or incidental to, a financial institution's business. Allows the department to appoint conservators for credit unions and corporate fiduciaries under certain circumstances. Establishes the powers and duties of a conservator. Provides that the director serves as an ex officio, voting member of the department. Provides that certain provisions of the Uniform Consumer Credit Code that apply to a person undertaking collection of payments from, or enforcement of rights against, a debtor in a consumer loan do not apply to licensed collection agencies. Sets forth the circumstances in which a bank, trust company, savings association, or savings bank may purchase and hold life insurance. Specifies that the term "credit agreement" includes an agreement to modify a credit agreement. Specifies that a debtor in a credit agreement may assert: (1) a claim for legal or equitable relief; or (2) a defense in a claim; arising from a credit agreement only if the credit agreement is in writing and is signed by the parties. (Current law does not specify that a debtor may assert a defense in a claim arising from a credit agreement only if the credit agreement is in writing and signed by the parties.) Repeals the current law governing the enforcement of sales competition. **Effective:** July 1, 2006.

TITLE 29: PROBATE

DIGEST OF SEA 102

Author(s): Becker, Long

Sponsor(s): Foley, VanHaften

Citations Affected: IC 29-2; IC 34-30.

Anatomical gift liability. Amends the uniform anatomical gift act to provide that a donor making an anatomical gift and the donor's estate are not liable for any injury or damage that may result from the making or use of an anatomical gift. **Effective:** July 1, 2006.

DIGEST OF SEA 114

Author(s): Zakas, Broden

Sponsor(s): Foley

Citations Affected: IC 29-1; IC 30-2; IC 30-4; noncode.

Probate and trust matters. Provides that a surviving subsequent childless spouse who takes against the will of the decedent is entitled to take one-third of the net personal estate and an additional amount equal to 25% of the fair market value of the decedent's real property minus liens and encumbrances. (Current law bases the additional amount on the value of the decedent's lands.) Makes conforming changes to the intestate succession law. Specifies additional powers that a personal representative may exercise without order of the court in the administration of an unsupervised estate. Provides that income earned by a trust becomes a part of the principal and is not distributed to the beneficiaries of specific property. Removes references to estates to conform Indiana's version of the uniform principal and income act with current probate law. Specifies that a trustee may exercise a power that conflicts with an individual interest of the trustee if the trustee receives written authorization from all interested persons to exercise the power or if the exercise of the power is specifically authorized by the terms of the trust. (Current law permits the exercise of the power only with court authorization.) Provides that a claimant seeking payment of a debt owed to a decedent or seeking to obtain personal property or an instrument evidencing a debt, an obligation, a stock, or a chose in action belonging to the decedent must include in the affidavit that the claimant submits to the debtor or person possessing the personal property or instrument: (1) the name and address of each other person entitled to a share of the property; (2) a statement that the claimant has notified each other person identified in the affidavit of the claimant's intention to present the affidavit; and (3) that the value of the gross probate estate does not exceed \$50,000. **Effective:** July 1, 2005 (retroactive); July 1, 2006.

TITLE 31: FAMILY LAW AND JUVENILE LAW

DIGEST OF HEA 1232

Author(s): Ayres, Budak, L.Lawson

Sponsor(s): Bray, Ford

Citations Affected: IC 31-37.

Curfew. Allows a child to be in a public place after curfew if the child is participating in an activity undertaken at the prior written direction of the child's parent, guardian, or custodian. **Effective:** July 1, 2006.

DIGEST OF SEA 33

Author(s): Alting, Craycraft, Tallian

Sponsor(s): Koch, T. Brown, Klinker, Micon

Citations Affected: IC 29-3; IC 34-30.

Volunteer advocates for incapacitated adults. Creates a volunteer advocates for incapacitated adults program (program) to represent and protect for a limited period the interests of an incapacitated or protected person who is at least 18 years of age. Requires a volunteer advocate for incapacitated adults to report to the court and make recommendations regarding the incapacitated or protected person. Provides civil

immunity for a program or an employee or a volunteer of a program. **Effective:** July 1, 2006.

DIGEST OF SEA 40

Author(s): Ford, Breaux, Steele, Bowser

Sponsor(s): Duncan, Thomas, Saunders, Kersey

Citations Affected: IC 31-9; IC 31-14; IC 31-17.

Relocation issues in family law matters. Requires an individual who has or is seeking custody of or parenting time with a child and who intends to relocate to: (1) provide notification by registered or certified mail not later than 90 days before the individual intends to move to an individual who has or is seeking custody of, parenting time with, or grandparent visitation with the child; and (2) provide specific information in the notice unless providing the information would create a significant risk of substantial harm to the individual or the child. Provides that a court may consider the intent to relocate a child in an initial custody hearing. Provides that: (1) not later than 60 days after a nonrelocating parent receives the notice, the nonrelocating parent may file a motion with the court to prevent the relocation of a child; (2) if the nonrelocating parent fails to file a motion with the court, the individual may relocate; (3) upon request of either party, the court shall hold a full evidentiary hearing; and (4) the relocating individual has the burden of proof that the relocation is made in good faith and for a legitimate purpose. Establishes: (1) additional factors the court may consider in determining whether to modify the custody, parenting time, grandparent visitation, or child support orders in actions concerning relocation; and (2) factors the court may consider in granting or denying a petition to prevent relocation of a child. Requires a grandparent seeking visitation rights to file a petition in a circuit, superior, or probate court. (Current law requires a grandparent to file in a circuit or superior court.) Repeals provisions concerning notice of the relocation of a child in child custody matters. **Effective:** July 1, 2006.

DIGEST OF SEA 153

Author(s): Lawson

Sponsor(s): Richardson, Budak, Summers

Citations Affected: IC 12-17; IC 31-14; IC 31-15; IC 31-16; IC 31-18; IC 31-33; IC 33-32; IC 33-37; IC 34-30.

State central collection unit and child support. Establishes the state central collection unit (unit) within the child support bureau to collect and process noncash child support payments. Requires clerks of court (clerks) to collect and process cash child support payments. Deletes references to "other person" and "other governmental agency" in statutes concerning the unit. Requires a party affected by a child support order to notify the unit or a clerk of an address change. Requires a person using income withholding to provide certain information to the unit. Repeals a provision regarding noncash payments of child support to clerks. Provides that the unit is not liable for certain errors in the disbursement and collection of child support payments. Provides the procedure the unit is to follow if the unit improperly disburses a child support payment. Makes certain changes concerning income withholding orders in enforcing dissolution of marriage, legal separation, and child support decrees. Provides that a collection agency that contracts with the child support bureau or a prosecuting attorney may, in addition to the

collection of arrearage on a child support order, assess and collect from an obligor all fees, charges, costs, and other expenses as provided under the contract. Provides that an individual ordered to pay child support through income withholding shall also pay the annual child support fee through income withholding. Changes the support and maintenance fee to \$30. Provides that the state central collection unit may collect any unpaid fee through any lawful means. Provides that the child support bureau (bureau) may contract with a private entity to undertake Title IV-D duties. Provides that the bureau shall stipulate service levels that a prosecuting attorney, private attorney, private entity, or collection agency is expected to meet and that certain funds shall be disbursed if the service levels are met. Provides that the bureau retains 22.2% of incentive payments distributed to a county regarding child support payment collection. Provides that incentive payments shall be distributed in the following manner: (1) 22.2% of the incentive payments are distributed to the county general fund; (2) 33.4% of the incentive payments are distributed to the prosecuting attorney; (3) 22.2% of the incentive payments are distributed to the court clerk; and (4) the bureau shall retain 22.2% of the incentive payments. Makes technical corrections. **Effective:** Upon passage; July 1, 2006.

TITLE 32: PROPERTY

DIGEST OF HEA 1010

Author(s): Wolkins, Foley, Grubb, Dvorak, Hoy, Cheney

Sponsor(s): Bray, Drozda, Sipes, Lewis

Citations Affected: IC 22-13-2-1.5; IC 23-14-75; IC 32-24; IC 36-7.

Eminent domain. Requires a condemnor, before proceeding to acquire property by use of eminent domain, to: (1) establish a proposed purchase price; (2) provide the owner with an appraisal or other evidence used to establish the proposed purchase price; and (3) conduct a good faith negotiation with the owner of the property. Requires a condemnor, except the department of transportation (department), certain utilities, and certain other persons, to proceed to acquire the property by use of eminent domain not more than two years after the condemnor submits a written acquisition offer to the owner of the property. Requires the department, certain utilities, and certain other persons to initiate eminent domain proceedings not more than six years after the department, utility, or other person submits a written acquisition offer to the property owner. Provides that if a condemnor fails to: (1) take possession of property the condemnor acquired through the use of eminent domain; and (2) adapt the property for the purpose for which it was acquired; not later than six years after the payment of the award or judgment for damages occurs, the condemnor forfeits all rights in the property as if the procedure to take the property had not begun. Provides that a property owner may receive litigation expenses, including reasonable attorney's fees, in an amount not to exceed the lesser of: (1) \$25,000; or (2) the fair market value of the property; if the property owner is awarded greater compensation at trial than was offered in the most recent settlement offer. Specifies that certain persons authorized to exercise eminent domain may do so only to accomplish the essential delivery of services. Establishes procedures for using eminent domain to transfer ownership or control of real property between private persons for uses that are not public uses, including: (1) limiting the use of eminent domain only to certain types of property; (2) requiring that the acquisition of the property will accomplish more than only increasing the property tax base of a government entity; (3) requiring mediation

under certain circumstances; (4) requiring the payment of more than the fair market value of certain types of property; (5) requiring the condemnor to pay the attorney's fees of certain owners; and (6) requiring the payment of certain other damages, if applicable, including business losses. Prohibits a state agency or political subdivision from requiring that a lawfully erected sign be removed or altered as a condition of issuing a permit, license, variance, or other order concerning land use development unless the sign owner is compensated or has waived compensation in writing. Prohibits libraries from exercising eminent domain unless a specified legislative body in the library district adopts a resolution specifically approving the use of eminent domain for a particular purpose. Prohibits a privately owned cemetery from exercising eminent domain. Makes other changes and conforming amendments. **Effective:** Upon passage.

DIGEST OF HEA 1114

Author(s): Foley, Thomas

Sponsor(s): Steele, Broden

Citations Affected: IC 24-5-15; IC 27-7-3.6; IC 32-21-7-1; IC 33-37-6-2;
IC 36-2.

Various property matters. Establishes the title insurance enforcement fund. Imposes a \$5 fee on the purchaser of a title insurance policy and requires the insurer to deposit \$3 of the fee in the title insurance enforcement fund (the insurer is allowed to retain \$2 of the fee for administrative costs). Authorizes the budget agency to augment the appropriations to the department of insurance from the title insurance enforcement fund. Specifies the language sufficient to incorporate by reference a recorded covenant, restriction, easement, or other encumbrance in a conveyance of land. Provides that an adverse possessor or claimant who wishes to establish title to land or real estate must pay the taxes and special assessments that the adverse possessor or claimant reasonably believes in good faith to be due on the land or real estate. (Current law requires the adverse possessor or claimant to pay the taxes and special assessments due on the land or real estate.) Provides the methods of payment that a county recorder may authorize that the county recorder may be paid with. Provides that a county recorder may collect a sum if it is charged a fee for the use of a financial instrument. Requires a court clerk and a county recorder to collect a fee from a person using a bank card or credit card if there is a vendor transaction charge or discount fee. Allows a court clerk and a county recorder to contract with a payment processing company. Allows the payment processing company to collect a transaction fee from the person using the bank card or credit card. Requires redaction of Social Security numbers (unless required under other law) in documents filed with the county recorder. Requires an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or lien on property (other than a federal lien) to have the Social Security numbers redacted before recording and filing unless required by other law. Reduces the standard for the redaction of Social Security numbers in recorded or filed documents from "to the extent possible" to "to the extent practicable and as permitted by law". Adds a culpability standard for the Class A infraction that may be committed when recorded documents containing Social Security numbers are disclosed by the county recorder's office. Provides that a county recorder shall charge a county identification security protection fee for recording or filing a document. Amends the affirmation regarding redacting a Social Security number that must be attached to a

document that is recorded or filed. Provides that, for purposes of the law concerning credit services organizations: (1) the definition of "credit services organization" includes a person that sells the service of obtaining a delay or forbearance of a buyer's obligation under a mortgage; (2) the definition of "extension of credit" includes the right to delay or avoid foreclosure on a buyer's mortgage; (3) it is a deceptive act to take power of attorney from a buyer for any purpose other than inspecting documents as provided by law; and (4) a credit service organization must obtain a surety bond in the amount of \$25,000 instead of \$10,000 before doing business in Indiana. **Effective:** Upon passage; January 1, 2006 (retroactive); July 1, 2006.

DIGEST OF HEA 1136

Author(s): Burton, Austin, Ruppel

Sponsor(s): Long, Simpson

Citations Affected: IC 32-28.

Brokers' liens on commercial real estate. Allows a principal broker to assert a lien upon commercial real estate that is the subject of a purchase, a lease, or other conveyance to a buyer or tenant, in the amount that the principal broker is due for licensed services provided in connection with the transaction under certain conditions. Requires an owner to provide a principal broker with certain information concerning a closing transaction before the date of the closing transaction, and requires an owner to certify at closing that the owner has made the required disclosures or that the principal broker has been paid in full. Specifies that in the case of a lease of commercial real estate in which a principal broker is due future fees or commissions upon the exercise of certain options by a party to the lease, the broker may, at any time after the execution of the lease, record a memorandum of lien, which serves as notice of the broker's right to future fees or commissions. Permits a party that has suffered a pecuniary loss as the result of an owner's noncompliance with the notice or certification requirements to bring a cause of action against the owner, and permits treble damages if the owner's noncompliance was fraudulent. Makes other changes. **Effective:** July 1, 2006.

TITLE 33: COURTS AND COURT OFFICERS

DIGEST OF HEA 1156

Author(s): Richardson, Thomas, Buell

Sponsor(s): Bray, Breaux

Citations Affected: IC 6-1.1; IC 31-12; IC 33-28; IC 33-33; IC 33-37; noncode.

Various provisions concerning courts. Limits the amount of an excessive property tax levy for new court operating expenses to the estimate by the taxing unit operating the court of the court's expenses for its first year of operation. Lists the costs that qualify for the excessive levy. Requires jury commissioners to use only lists approved by the supreme court to determine the names of prospective jurors to be included in a jury pool. Removes provisions that allow the commissioners to select names from various other sources. Repeals definitions of "voter registration lists". Prohibits an employer from: (1) subjecting an employee to an adverse employment action because of the employee's jury service; and (2) requiring an employee to use vacation or other leave for jury duty. Increases the number of judges on the Marion superior court from: (1) 32 to 35 judges beginning January 1, 2007; and (2) 35 to 36 judges beginning January 1, 2009. Increases

the total number of magistrates that a majority of the Marion superior court may appoint from four to eight beginning January 1, 2008. Increases the court administration fee from \$2 to \$3. Permits a court to establish a domestic relations court and a domestic relations counseling bureau, and authorizes a court to charge a fee for providing domestic relations counseling services if the county fiscal body has approved a schedule of fees for domestic relation counseling services. (Current law permits only Marion county and Lake county to establish a domestic relations counseling bureau). Makes other changes. **Effective:** Upon passage; July 1, 2006.

DIGEST OF HEA 1158

Author(s): Richardson, Thomas

Sponsor(s): Bray, Lanane

Citations Affected: IC 9-29; IC 33-34; IC 33-35; IC 33-37; IC 36-2; noncode.

Small claims, civil actions, and sheriff's fees. Specifies that the 25% of the judicial salaries fees collected by a Marion County small claims court that is not deposited in the state general fund must be deposited in the general fund of the township in which the small claims court is located. Provides that the small claims service fee and civil action service fee do not apply to garnishee defendants. Creates a \$10 small claims garnishee service fee and a \$10 garnishee service fee, and provides that these fees are to be collected in small claims and civil actions involving more than three garnishees or garnishee defendants. Distributes the fees in the same manner as the small claims service fee and the service fee are distributed. Increases fees a county sheriff may charge for reports issued by the sheriff's office and for service of process for civil actions. Provides that for each verified claim filed by a sheriff for service of writs, orders, process, notices, tax warrants, or other papers completed by the sheriff: (1) a \$13 service of process fee is imposed; and (2) the amount that a county fiscal body must appropriate to the sheriff is increased. Adds county sheriffs to the list of county officers entitled to appoint a chief deputy and other deputies and employees. Permits the superintendent of the state police department to charge a fee of at least \$5 for an accident report and for the inspection and copying of other data related to an accident report without having the fee fixed by a local ordinance. Increases the DNA sample processing fee from \$1 to \$2 and permits the state police department to use the funds for DNA analysis. Specifies that the garnishee service fees service of process fees only apply to cases filed after June 30, 2006. Renames certain small claims courts. Makes conforming amendments. **Effective:** July 1, 2006.

DIGEST OF SEA 84

Author(s): Long, Bray, Zakas, Broden, Lanane, Wyss, Howard

Sponsor(s): Foley, Kuzman

Citations Affected: IC 11-13; IC 12-23; IC 33-23; IC 33-37; IC 33-38; IC 34-30; IC 35-38.

Reentry courts. Establishes a reentry court under a court having felony, misdemeanor, or juvenile jurisdiction in a city or county. Grants a reentry court jurisdiction over certain persons released from the department of correction. Authorizes a reentry court to provide reintegration services to persons released from the department. Establishes a procedure for approval of a reentry court. Authorizes a reentry court to establish reasonable fees. Allows the board of directors of the judicial conference of Indiana to delegate certain

rulemaking functions concerning reentry courts and drug courts to a committee of the judicial conference. Makes other changes and conforming amendments. **Effective:** July 1, 2006.

DIGEST OF SEA 85

Author(s): M. Young
Sponsor(s): Buell, Kromkowski
Citations Affected: IC 33-39; noncode.

Prosecuting attorneys' pensions. Reduces from ten to eight the years of service credit required for a participant to vest in the prosecuting attorneys retirement fund. **Effective:** July 1, 2006.

DIGEST OF SEA 232

Author(s): Gard
Sponsor(s): Foley, Mays
Citations Affected: IC 8-2; IC 33-28.

Jury service exemptions. Eliminates automatic exemptions from jury service. Permits a person called for jury service to receive one deferral for up to one year if the juror selects an alternate date and the deferral is necessary due to hardship, extreme inconvenience, or necessity. Protects a person called for jury service from being subjected to adverse employment actions. Prohibits employers from requiring or requesting employees to use annual vacation or sick leave for jury service. Repeals a provision concerning jury service exemptions in Lake County. **Effective:** July 1, 2006.

TITLE 34: CIVIL LAW AND PROCEDURE

DIGEST OF HEA 1112

Author(s): Foley, Thomas, Kuzman, Pond
Sponsor(s): Kenley, Bray
Citations Affected: IC 34-43.5.

Communications of sympathy. Prohibits a court from admitting a communication of sympathy into evidence. Provides that a court may admit a statement of fault into evidence, including a statement of fault that is part of a communication of sympathy, if otherwise admissible under the Indiana Rules of Evidence. **Effective:** July 1, 2006.

DIGEST OF HEA 1113

Author(s): Foley, Ripley
Sponsor(s): Bray
Citations Affected: IC 34-30; noncode.

Liability connected with consumption of food and beverages. Grants immunity from civil liability for certain persons in the food and beverage industry, including advertisers, marketers, and advertising media, as to a claim concerning weight gain, obesity, a health condition associated with weight gain or obesity, or a generally known condition allegedly caused by or allegedly likely to result from the long term consumption of food or beverages. Provides that the immunity does not apply if the weight gain is related to a pregnancy, or if it relates to certain types of misbranding, adulteration, or knowing and willful violations of state or federal law. **Effective:** July 1, 2006.

DIGEST OF SEA 296

Author(s): Kenley
Sponsor(s): Foley, Torr
Citations Affected: IC 5-2; IC 34-51.

Punitive damages. Permits the attorney general's office to negotiate and compromise the portion of a punitive damages award that is to be paid to the state. Provides that the state's interest in a punitive damages award is effective when a finder of fact announces a verdict that includes punitive damages. **Effective:** July 1, 2006.

TITLE 35: CRIMINAL LAW AND PROCEDURE

DIGEST OF HEA 1024

Author(s): J. Smith, Thomas
Sponsor(s): Drozda
Citations Affected: IC 35-42; noncode.

Criminal confinement. Makes criminal confinement a Class C felony if: (1) it is committed by using a vehicle; or (2) it results in bodily injury to a person other than the confining or removing person. **Effective:** July 1, 2006.

DIGEST OF HEA 1028

Author(s): Koch, Ulmer, Ruppel
Sponsor(s): Nugent, Steele
Citations Affected: IC 35-41.

Firearms and self-defense. Specifies that a person: (1) is justified in using deadly force; and (2) does not have a duty to retreat; if the person reasonably believes that force is necessary to prevent serious bodily injury to the person or a third person or the commission of a forcible felony. Specifies that a person: (1) is justified in using reasonable force, including deadly force, against another person; and (2) does not have a duty to retreat; if the person reasonably believes that the force is necessary to prevent or terminate the other person's unlawful entry of or attack on the person's dwelling, curtilage, or occupied motor vehicle. **Effective:** July 1, 2006.

DIGEST OF HEA 1049

Author(s): Bell, Walorski, Ulmer
Sponsor(s): M. Young, Dillon, Kruse
Citations Affected: IC 35-41; IC 35-46; noncode.

Controlled substances crimes. Expands the definition of "family housing complex" used in the controlled substances laws to include a hotel, a motel, an apartment complex, or a building that contains subsidized housing. Makes neglect of a dependent a Class C felony if it: (1) results from the manufacture of cocaine, methamphetamine, or a narcotic drug; or (2) is committed in an area where cocaine, methamphetamine, or a narcotic drug is being manufactured, delivered, or financed.

Effective: July 1, 2006.

DIGEST OF HEA 1093

Author(s): Dobis, Cheney, Ayres

Sponsor(s): Wyss, Sipes, Steele

Citations Affected: IC 20-20; IC 20-33; IC 35-47; noncode.

Offenses on school property or against school employees. Makes possessing a knife on school property or on a school bus a Class B misdemeanor. Makes the offense a Class A misdemeanor if the offender has a previous unrelated conviction and a Class D felony if the offense results in bodily injury or serious bodily injury to another person. Adds battery against, and the harassment of, a school employee to the list of offenses that must be reported to a local law enforcement agency.

Effective: July 1, 2006.

DIGEST OF HEA 1108

Author(s): T.Brown, L.Lawson, Mays, Kruzman

Sponsor(s): Long

Citations Affected: IC 9-13; IC 9-21; IC 35-42; noncode.

Aggressive driving and criminal recklessness. Defines "aggressive driving". Makes aggressive driving a Class A misdemeanor if it is done knowingly or intentionally with the intent to harass or intimidate a person in another vehicle, and provides that the offense does not apply to law enforcement officers engaged in their official duties. Makes criminal recklessness: (1) a Class D felony instead of a Class B misdemeanor if the offense is committed by a person who committed aggressive driving that results in serious bodily injury to another person; and (2) a Class C felony instead of a Class B misdemeanor if the offense is committed by a person who committed aggressive driving that results in the death of another person. Makes criminal recklessness a Class C felony instead of a Class B misdemeanor if it is committed by shooting a firearm into an inhabited dwelling or other building or place where people are likely to gather. (Current law requires that the shooting be done from a vehicle.) **Effective:** July 1, 2006.

DIGEST OF HEA 1155

Author(s): Budak, J.Smith, Ulmer, Bardon

Sponsor(s): Long, Becker, Simpson

Citations Affected: IC 5-2-6; IC 10-13; IC 11-8; IC 11-13-6-5.5; IC 31-19-11-1; IC 31-30-1-2.5; IC 31-37-19-5; IC 31-37-19-9; IC 35-38; IC 35-41-4-2; IC 35-42-4-10; IC 35-42-4-11; IC 35-43-1-2; IC 35-44-3-9.3; IC 35-44-3-13; IC 35-50-6-1; IC 35-50-6-5; IC 36-2-13-5.5; IC 33-40-3-1; IC 35-33-8-3.2; IC 35-33-8-3.3; IC 5-2-1-9; IC 12-13-5-2; IC 31-9-2-29.5; IC 35-32-2-3; IC 35-37-4-6; IC 35-37-4-8; IC 35-41-1-6.5; IC 35-42-3.5; IC 35-45-6-1; IC 35-50-5-3; IC 5-2-6-3.5; IC 5-2-12.

Sex offenders. Conference committee report for EHB 1155. Transfers oversight of the sex offender registry from the criminal justice institute to the department of correction (DOC). Eliminates the sex and violent offender directory, transfers its functions to the sex offender registry, and requires the criminal justice institute to seek grants to support the sex offender registry. Removes a provision requiring a sex offender to register using a "registration form", and requires the DOC to establish a format for registration. Requires the DOC to transmit information concerning sex offenders to a neighborhood association, or to provide instructional material in the use of the sex offender registry. Requires the DOC to inform and train judges, prosecuting attorneys, law enforcement officials, and others in the sex offender registration procedure. Requires that the sex offender registry be updated daily and be available on the Internet, requires incarcerated sex offenders to

register before being released, and shortens certain registration periods. Establishes a procedure for determining which out of state sex offenders residing in Indiana are required to register and how long they are required to register. Permits the DOC to reduce good time credit for a sex offender who does not participate in a sex offender treatment program or who does not register before being released from incarceration. Specifies that a sex offender's principal residence is the residence where the offender spends the most time. Imposes additional registration and notification requirements on sex offenders, including a requirement that a sexually violent predator notify law enforcement officials if the predator will be absent from the predator's principal residence for more than 72 hours. Requires a sexually violent predator to initially register not more than 72 hours after release from incarceration or supervision, and requires all sex offenders to register in person at least once per year. Requires a sex offender to possess a valid driver's license or state identification card. Requires a sex offender who temporarily resides in transitional housing to register once every seven days, and requires a local law enforcement authority to personally visit the listed address of a sex offender. Provides various penalties for violations of these provisions. Makes conforming amendments. Repeals certain provisions concerning the criminal justice institute's duties with respect to sex offenders. Provides that a sexually violent predator who commits an offense after June 30, 2006, must be placed on lifetime parole when the person's term of imprisonment is completed. Provides that a person who violates a condition of lifetime parole after the person's lifetime parole has been revoked two or more times or after completing the person's sentence (including any credit time) commits a Class D felony if the violation involves contact with a child or a victim of the child molesting offense of which the person was convicted, and a Class C felony if the person has a prior unrelated lifetime parole violation conviction. Specifies that a sexually violent predator in another state whose parole is transferred to Indiana may also be required to be placed on lifetime parole. Provides that, if a person being supervised on lifetime parole is also required to be supervised by a probation department or similar agency, the probation department or similar agency may have sole supervision of the person if the parole board finds that supervision by the probation department or other agency will be at least as stringent and effective as supervision by the parole board. Prohibits a sex offender from obtaining a waiver for certain residency restrictions imposed as part of probation or parole, and requires the department of correction to report to the budget committee before August 1, 2006, concerning the feasibility of recovering the expense of GPS monitoring from an offender. Requires a sexually violent predator placed on lifetime parole to wear a GPS monitoring device. Requires the department of correction to report annually to the legislative council concerning the department's implementation of lifetime parole and GPS monitoring of sex offenders, including information concerning costs, recidivism, and proposals to reduce cost or increase efficiency. Requires the sentencing policy study committee to study issues related to sex offenders, including: (1) lifetime parole; (2) GPS monitoring; (3) a classification system for sex offenders; (4) recidivism; and (5) treatment. Specifies that a sex offender's principal residence is the residence where the offender spends the most time. Expands the definition of a "sexually violent predator" to include persons at least 18 years of age who commit certain offenses and persons who commit an offense for which they must register as a sex offender who have a prior conviction for an offense for which they would be required to register as a sex offender.

Prohibits a sexually violent predator from working or volunteering on school property or at a public park or youth program center or at an amusement attractive to children. Prohibits certain sex offenders from residing within: (1) 1,000 feet of a school, public park, or youth program center; or (2) one mile of the victim's residence. Provides that the DNA exception to the statute of limitations for Class B, C, and D felonies applies when DNA analysis provides evidence sufficient to charge a person with an offense. (Currently the DNA exception applies when DNA analysis permits the discovery of the offender's identity.) Requires certain persons not committed to the department of correction to submit a DNA sample. Adds crimes committed in other states that are substantially similar to certain Indiana sex crimes to the list of underlying offenses that permit a person to be charged as a repeat sexual offender. Permits a court or the parole board to prohibit a probationer or parolee who has been convicted of stalking from residing within 1,000 feet of the home of the victim. Provides various penalties for violations of these provisions. Prohibits a juvenile court from appointing a person to serve as the guardian or custodian of a child if the person is a sexually violent predator or has committed certain sex offenses. Adds a board certified psychologist or psychiatrist appointed by the governor to the sentencing policy study committee to act as a nonvoting advisor to the committee. Makes certain other changes and conforming amendments. Makes delivering contraband directly or indirectly to an inmate who has been or is being transported from a penal facility to attend judicial proceedings a Class A misdemeanor. Makes the offense a Class D felony if the contraband is a controlled substance and a Class C felony if the contraband is an item that may be used as a weapon. Authorizes a court to require a repeat offender who is placed on bail and supervised by a probation officer or pretrial services agency to pay a pretrial services fee to defray the cost of supervision by the probation department or pretrial services agency if the person has the financial ability to pay the fee and the court finds by clear and convincing evidence that supervision by the probation department or pretrial services agency is necessary to ensure: (1) the defendant's appearance in court; or (2) the physical safety of another person or the community. Specifies that the pretrial services fee does not apply in city or town courts. Provides that the fee is divided between the county supplemental adult probation services fund and the county supplemental public defender services fund. Prohibits the bureau of motor vehicles from issuing or reinstating the license of a person who has not paid the person's pretrial services fee upon the person's conviction. Specifies that an order to pay the fee is immediately terminated if a defendant is acquitted or charges are dropped, and makes other changes relating to the collection and distribution of the fee. Makes it promotion of human trafficking, a Class B felony, for a person to recruit, harbor, or transport another person to: (1) engage the other person in forced labor or involuntary servitude; or (2) force the other person into marriage or prostitution. Makes it sexual trafficking of a minor, a Class A felony, for certain individuals to sell or transfer custody of a child less than 18 years of age for the purpose of prostitution. Makes it human trafficking, a Class C felony, for a person to pay for an individual whom the person knows has been forced into forced labor, involuntary servitude, or prostitution. Requires a court to order a person convicted of a human and sexual trafficking offense to pay restitution to the victim of the offense. Establishes a civil cause of action for victims of human and sexual trafficking offenses. Requires law enforcement officers and the division of family resources to provide certain assistance to victims of human and sexual

trafficking offenses. Adds human and sexual trafficking crimes to the list of crimes that: (1) invoke certain procedures for evidence concerning protected persons; (2) can be a crime of domestic violence; (3) can be murder if a person is killed during the commission of the crime; and (4) can be a "racketeering activity". Requires the sentencing policy study committee to study issues related to human trafficking. Requires the law enforcement training board to establish minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. **Effective:** Upon passage; July 1, 2006.

DIGEST OF HEA 1207

Author(s): Pond, Bell, Thomas, Budak

Sponsor(s): Wyss, Craycraft

Citations Affected: IC 35-43.

Home improvement fraud. Expands the circumstances in which a home improvement supplier commits home improvement fraud. Makes home improvement fraud a Class D felony or Class C felony in certain cases if: (1) the consumer is at least 60 years of age and the contracted amount exceeds a certain limit; or (2) the home improvement supplier violates two or more provisions of the law. Makes home improvement fraud: (1) a Class B misdemeanor if an unconscionable home improvement contract price is more than \$4000, but less than \$7000; and (2) a Class A misdemeanor if an unconscionable home improvement contract price is at least \$7000, but less than \$10,000. Provides that home improvement fraud is a Class A misdemeanor for a second or subsequent offense including a similar offense committed in another jurisdiction. **Effective:** July 1, 2006.

DIGEST OF HEA 1281

Author(s): Murphy, Thomas, L.Lawson, VanHaffen

Sponsor(s): Lubbers, Broden

Citations Affected: IC 35-42; noncode.

Domestic violence. Makes domestic battery a Class D felony if: (1) the person who committed the offense has a previous unrelated conviction for a substantially similar crime in Indiana or any other jurisdiction; or (2) it is knowingly committed in the presence of a child less than 16 years of age. Makes strangulation a Class D felony. **Effective:** July 1, 2006.

DIGEST OF SEA 5

Author(s): Steele, Craycraft, M. Young, Mishler, Zakas, Paul, Dillon

Sponsor(s): Ulmer, Grubb

Citations Affected: IC 35-45; noncode.

Disorderly conduct at funerals and intimidation. Makes disorderly conduct a Class D felony instead of a Class B misdemeanor if it: (1) is committed within 500 feet of the location where a funeral, burial, memorial service, funeral procession, or viewing is taking place; and (2) adversely affects the funeral, burial, memorial service, funeral procession, or viewing. Makes intimidation a Class D felony instead of a Class A misdemeanor if the person to whom a threat is communicated is an employee of a: (1)

court; (2) probation department; or (3) community corrections program. **Effective:** Upon passage.

DIGEST OF SEA 6

Author(s): Steele, Long, R.Meeks, Bowser, Lanane

Sponsor(s): Ulmer, Grubb

Citations Affected: IC 11-13-3-3; IC 11-13-3-4; IC 31-30-1-2.5; IC 35-38-2-2.5; IC 35-44-3-13; IC 35-50-6-1.

Sex offenders. Conference committee report for ESB 6. Provides that a sexually violent predator who commits an offense after June 30, 2006, must be placed on lifetime parole when the person's term of imprisonment is completed. Provides that a person who violates a condition of lifetime parole after the person's lifetime parole has been revoked two or more times or after completing the person's sentence (including any credit time) commits a Class D felony if the violation involves contact with a child or a victim of the child molesting offense of which the person was convicted, and a Class C felony if the person has a prior unrelated lifetime parole violation conviction. Specifies that a sexually violent predator in another state whose parole is transferred to Indiana may also required to be placed on lifetime parole. Provides that, if a person being supervised on lifetime parole is also required to be supervised by a probation department or similar agency, the probation department or similar agency may have sole supervision of the person if the parole board finds that supervision by the probation department or other agency will be at least as stringent and effective as supervision by the parole board. Prohibits a sexually violent predator from obtaining a waiver for certain residency restrictions imposed as part of probation or parole, and requires the department of correction to report to the budget committee before August 1, 2006, concerning the feasibility of recovering the expense of GPS monitoring from an offender. Requires a sexually violent predator placed on lifetime parole to wear a GPS monitoring device. Requires the department of correction to report annually to the legislative council concerning the department's implementation of lifetime parole and GPS monitoring of sex offenders, including information concerning costs, recidivism, and proposals to reduce cost or increase efficiency. Requires the sentencing policy study committee to study issues related to sex offenders, including: (1) lifetime parole; (2) GPS monitoring; (3) a classification system for sex offenders; (4) recidivism; and (5) treatment. Adds a psychiatrist or psychologist to the sentencing policy study committee as a nonvoting advisor. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 12

Author(s): Long, Wyss, Mrvan, Lanane, Broden, Miller, Zakas, Steele

Sponsor(s): Foley, Kuzman, Ulmer

Citations Affected: IC 5-2-6; IC 5-2-12; IC 10-13; IC 11-8; IC 11-13-6-5.5; IC 31-19-11-1; IC 31-30-1-2.5; IC 31-37-19-5; IC 31-37-19-9; IC 35-38; IC 35-41-4-2; IC 35-42-4-10; IC 35-42-4-11; IC 35-43-1-2; IC 35-44-3-13; IC 35-49-3-3; IC 35-50-6-1; IC 35-50-6-5; IC 36-2-13-5.5.

Sex offenders. Transfers oversight of the sex offender registry from the criminal justice institute to the department of correction (DOC). Eliminates the sex and violent offender directory, transfers its functions to the sex offender registry, and requires the criminal

justice institute to seek grants to support the sex offender registry. Removes a provision requiring a sex offender to register using a "registration form" and requires the DOC to establish a format for registration. Requires the DOC to transmit information concerning sex offenders to a neighborhood association or to provide instructional material in the use of the sex offender registry. Requires the DOC to inform and train judges, prosecuting attorneys, law enforcement officials, and others in the sex offender registration procedure. Requires that the sex offender registry be updated daily and be available on the Internet, requires incarcerated sex offenders to register before being released, and shortens certain registration periods. Establishes a procedure for determining which out of state sex offenders residing in Indiana are required to register and how long they are required to register. Permits the DOC to reduce good time credit for a sex offender who does not participate in a sex offender treatment program or who does not register before being released from incarceration. Specifies that a sex offender's principal residence is the residence where the offender spends the most time. Imposes additional registration and notification requirements on sex offenders, including a requirement that a sexually violent predator notify law enforcement officials if the predator will be absent from the predator's principal residence for more than 72 hours. Requires a sexually violent predator to initially register not more than 72 hours after release from incarceration or supervision, and requires all sex offenders to register in person at least once per year. Requires a sex offender to possess a valid driver's license or state identification card. Requires a sex offender who temporarily resides in transitional housing to register once every seven days, and requires a local law enforcement authority to personally visit the listed address of a sex offender. Provides various penalties for violations of these provisions. Makes conforming amendments. Repeals certain provisions concerning the criminal justice institute's duties with respect to sex offenders. Expands the definition of a "sexually violent predator" to include persons who commit certain offenses and persons who commit an offense for which they must register as a sex offender who have a prior conviction for an offense for which they would be required to register as a sex offender. Prohibits a sexually violent predator from working or volunteering on school property, at a public park or youth program center, or at an amusement attractive to children. Prohibits certain sex offenders from residing within: (1) 1,000 feet of a school, public park, or youth program center; or (2) one mile of the victim's residence. Provides that the DNA exception to the statute of limitations for Class B, C, and D felonies applies when DNA analysis provides evidence sufficient to charge a person with an offense. (Currently the DNA exception applies when DNA analysis permits the discovery of the offender's identity.) Requires certain persons not committed to the department of correction to submit a DNA sample. Adds crimes committed in other states that are substantially similar to certain Indiana sex crimes to the list of underlying offenses that permit a person to be charged as a repeat sexual offender. Permits a court or the parole board to prohibit a probationer or parolee who has been convicted of stalking from residing within 1,000 feet of the home of the victim. Provides various penalties for violations of these provisions. Provides that a sexually violent predator who commits an offense after June 30, 2006, must be placed on lifetime parole when the person's term of imprisonment is completed. Provides that a person who violates a condition of lifetime parole after the person's lifetime parole has been revoked two or more times or after completing the person's sentence (including any credit time) commits a Class D felony if the violation

involves contact with a child or a victim of the child molesting offense of which the person was convicted, and a Class C felony if the person has a prior unrelated lifetime parole violation conviction. Specifies that a sexually violent predator in another state whose parole is transferred to Indiana may also be required to be placed on lifetime parole. Provides that, if a person being supervised on lifetime parole is also required to be supervised by a probation department or similar agency, the probation department or similar agency may have sole supervision of the person if the parole board finds that supervision by the probation department or other agency will be at least as stringent and effective as supervision by the parole board. Prohibits a sexually violent predator from obtaining a waiver for certain residency restrictions imposed as part of probation or parole, and requires the department of correction to report to the budget committee before August 1, 2006, concerning the feasibility of recovering the expense of GPS monitoring from an offender. Requires a sexually violent predator placed on lifetime parole to wear a GPS monitoring device. Requires the department of correction to report annually to the legislative council concerning the department's implementation of lifetime parole and GPS monitoring of sex offenders, including information concerning costs, recidivism, and proposals to reduce cost or increase efficiency. Requires the sentencing policy study committee to study issues related to sex offenders, including: (1) lifetime parole; (2) GPS monitoring; (2) a classification system for sex offenders; (4) recidivism; and (5) treatment. Authorizes the governor to appoint a board certified psychologist or psychiatrist with expertise in treating sex offenders as a nonvoting advisor to the sentencing policy study committee. Makes certain other changes and conforming amendments. Makes it a Class D felony to rent matter that is harmful to a minor within 500 feet of a school or church. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 83

Author(s): Lubbers, Wyss, Lanane

Sponsor(s): Torr

Citations Affected: IC 35-41; IC 35-44; noncode.

Resisting law enforcement and deadly weapons. Provides that a taser, electronic stun weapon, chemical, or other device that is designed to temporarily incapacitate a person is not a deadly weapon if it is used by a law enforcement officer: (1) who is trained to use the weapon; (2) who employs the weapon in accordance with the law enforcement officer's training; and (3) while lawfully engaged in the execution of official duties. Imposes a mandatory minimum sentence for a person who commits resisting law enforcement and: (1) draws or uses a deadly weapon, inflicts bodily injury on or causes bodily injury to another person, or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person; (2) operates a vehicle in a manner that causes serious bodily injury to another person; or (3) operates a motor vehicle in a manner that causes the death of another person.

Effective: July 1, 2006.

DIGEST OF SEA 160

Author(s): Wyss, Jackman, Lewis

Sponsor(s): Ulmer, Kuzman

Citations Affected: IC 35-38.

Witnesses at an execution. Reduces to five the number of friends and relatives of a convicted person who may be present at an execution, and permits up to eight adult members of the immediate family of the victim to be present at an execution. Requires the department of correction to establish a procedure to select the family members who may be present at an execution if more than eight family members of a victim wish to attend or if there is more than one victim, and to establish a support room for the use of family members of a victim and support persons who will not be present at the execution. **Effective:** Upon passage.

DIGEST OF SEA 192

Author(s): Bray
Sponsor(s): Foley, Ayres
Citations Affected: IC 35-33.

Bail requirements. Allows a court that admits a defendant to bail to require the defendant to post a combination of property and surety bonds as a condition of bail. Provides that if a court requires a defendant to deposit cash or cash and other security in an amount equal to the defendant's bail, the court may require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay: (1) publicly paid costs of representation; and (2) fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted. **Effective:** July 1, 2006.

DIGEST OF SEA 193

Author(s): Bray, Hume
Sponsor(s): Foley, Bell

Citations Affected: IC 5-2; IC 9-13-2-86; IC 11-12-3.7-3; IC 16-31-3-; IC 20-28-5-8; IC 22-15-5-16; IC 25-1-1.1; IC 31-30-1-4; IC 34-24-1-1; IC 35-33-5-5; IC 35-38-2.6-1; IC 35-42-1-1; IC 35-45-6-1; IC 35-46-6; IC 35-47-4-5; IC 35-48-4; IC 35-50-2-2.

Controlled substances. Permits the destruction of chemically contaminated equipment used in the illegal manufacture of a controlled substance if certain conditions are met. Provides that a law enforcement officer has the right to inspect a retailer's log of ephedrine or pseudoephedrine sales. Prohibits a person from selling or releasing a log or the records from the completion of a log for commercial purposes. Allows the Indiana criminal justice institute to obtain information concerning a log or the records from the completion of a log from a law enforcement officer if the information may not be used to identify a specific individual and is used only for statistical purposes. Prohibits the possession of two or more precursors with the intent to manufacture a controlled substance, and makes the possession of anhydrous ammonia with the intent to manufacture amphetamine a Class D felony that may be enhanced under certain circumstances. Requires a law enforcement agency that discovers a child less than 18 years of age at a drug laboratory to notify the department of child services. Defines "methamphetamine abuse" and requires law enforcement agencies to report methamphetamine abuse to the criminal justice institute. Removes methamphetamine from the crimes of: (1) dealing in cocaine, a narcotic drug, or methamphetamine; and (2) possession of cocaine, a narcotic drug, or methamphetamine; and establishes new crimes of dealing in methamphetamine and possession of methamphetamine. Specifies that, for

purposes of the law concerning motor vehicles, a person is intoxicated if the person is under the influence of: (1) model glue or certain other substances; or (2) nitrous oxide. Defines inhaling a toxic vapor, a Class B misdemeanor, as the act of ingesting or inhaling, with intent to cause a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulling of the senses, the fumes of amyl butrate, isobutyl nitrate, freon, chlorinated hydrocarbons, methylene chloride, hexane, ether, chloroform, halothane, or any other chemical having the property of releasing toxic vapors. Makes conforming amendments. **Effective:** Upon passage; July 1, 2006.

DIGEST OF SEA 246

Author(s): Hershman, Hume, Rogers, Landske, Kruse, Lewis, Lutz

Sponsor(s): Koch, Murphy, Grubb

Citations Affected: IC 5-2; IC 11-13; IC 35-38; IC 35-41; IC 35-42; IC 35-50; noncode.

Sex offenders. Specifies that a sex offender's principal residence is the residence where the offender spends the most time. Expands the definition of a "sexually violent predator" to include persons above the age of 18 who commit an offense against a child less than 12, persons with certain prior convictions, and persons who used deadly force, used a deadly weapon, or caused serious bodily injury in the commission of a sex offense. Prohibits a sexually violent predator from working or volunteering on school property or at a public park or youth program center. Prohibits certain sex offenders from residing within: (1) 1000 feet of a school, public park, or youth program center; or (2) one mile of the victim's residence. Provides that the DNA exception to the statute of limitations for Class B, C, and D felonies applies when DNA analysis provides evidence sufficient to charge a person with an offense. (Currently the DNA exception applies when DNA analysis permits the discovery of the offender's identity.) Adds crimes committed in other states that are substantially similar to certain Indiana sex crimes to the list of underlying offenses that permit a person to be charged as a repeat sexual offender. Provides various penalties for violations of these provisions. Makes certain other changes. **Effective:** July 1, 2006.

DIGEST OF SEA 297

Author(s): Wyss, Broden, Long, Delph, Steele, Mrvan, Kruse

Sponsor(s): Foley

Citations Affected: IC 9-24; IC 35-43.

Penalty for false information given to the BMV. Provides that a person who: (1) knowingly or intentionally uses false information or otherwise commits fraud in an application for an identification card; or (2) knowingly or intentionally uses a false name or address or otherwise commits fraud in an application for a driver's license or permit; commits application fraud, a Class D felony. (Current law provides that the offenses are Class B and Class C misdemeanors, respectively.) **Effective:** July 1, 2006.

DIGEST OF SEA 338

Author(s):

Sponsor(s):

Citations Affected: IC 35-43; IC 35-50.

False identification and criminal gang enhancement. Makes it a Class A misdemeanor to possess, produce, or distribute a document not issued by a government entity. that purports to be a government issued identification. Provides that the sentence imposed on a person for committing a felony may be enhanced if the trier of fact determines that the person was a member of a criminal gang at the time of the offense and committed the offense at the direction of or in affiliation with a criminal gang. Provides that the enhancement must equal the sentence for the felony the person is convicted of and that the enhancement may not be suspended. **Effective:** July 1, 2006.

TITLE 36: LOCAL GOVERNMENT

DIGEST OF HEA 1076

Author(s): Friend, Thompson, Stevenson

Sponsor(s): Hershman, Weatherwax

Citations Affected: IC 20-26; IC 36-1.

Contracts for public water and wastewater projects. Includes water and wastewater, in addition to energy, under the guaranteed savings contracts and utility efficiency programs that may be used by local units of government to reduce consumption and usage costs or to provide billable revenue increases. **Effective:** July 1, 2006.

DIGEST OF HEA 1089

Author(s): J.Lutz, Reske

Sponsor(s): Kenley, Lanane

Citations Affected: IC 36-4.

Annexation of property zoned agricultural. Allows a city or town to exempt annexed agricultural land from property tax liability until the land is rezoned under a different classification. (Under current law, only certain municipalities may do this.) Provides that if the annexation ordinance is adopted after June 30, 2006, the property tax liability is exempted for a period of not more than 10 years.

Effective: July 1, 2006.

DIGEST OF HEA 1102

Author(s): Ayres, Hinkle, Stevenson, Agülera

Sponsor(s): Lawson, Lewis

Citations Affected: IC 5-3-1-0.4; IC 5-3-1-2.3; IC 5-11; IC 6-1.1; IC 9-21-5-6; IC 12-19-7.5-31; IC 12-20; IC 33-36-2-3; IC 36-1; IC 36-2-7-10; IC 36-4-7-3; IC 36-4-7-11; IC 36-6-6-10; IC 36-7; IC 36-8-3-3; IC 36-9.

Local government matters. Specifies that the annual reports filed with the state board of accounts by governmental units must show the business addresses of officers and employees. (Current law specifies only that the "addresses" must be included.) Provides that if a county auditor publishes a notice concerning a tax rate, tax levy, or budget of a political subdivision in the county and the notice contains an error or omission for which the county auditor is responsible: (1) the county auditor must publish (at the county auditor's expense) a notice containing the correct tax rate, tax levy, or budget as proposed or fixed by the political subdivision; (2) the department of local government finance may correct the error or omission at any time; and (3) the maximum amount to which the department of local government finance may increase the tax rate, tax levy, or budget is

the amount originally fixed by the political subdivision and not the amount incorrectly published or omitted in the notice. Provides that certain specified facilities, such as golf courses, massage parlors, and racetracks, are not eligible for the "automatic abatement" for personal property. (Current law provides that these facilities are not eligible for the automatic abatement for real property.) Amends the county recorder fee statute to provide that the cost of furnishing a page not larger than 8 inches by 14 inches is \$1, regardless of whether or not the page is produced by a photographic process. Provides that a political subdivision has two weeks (rather than one week) to respond to the department of local government finance (DLGF) if the DLGF revises the political subdivision's budget, tax rate, or tax levy. Allows transfers to the political subdivision's rainy day fund to be made at any time. Provides that an appeal by a township board to borrow money to fund township assistance is made directly to the department of local government finance. Repeals provisions concerning appeals by townships to county commissioners and county councils for the borrowing of money for township assistance. Repeals provisions concerning county borrowing for township assistance. Repeals a provision authorizing the county fiscal body to levy property taxes and make an appropriation to advance money to a township for township assistance if the county commissioners determine that there will be insufficient money in the township assistance fund. Allows the northwestern Indiana regional planning commission to pay a claim or purchase order without obtaining a vendor's signature. Provides that a claim for reimbursement of mileage, meal, and lodging expenses to attend a state board of accounts conference may not be denied if the claim meets statutory requirements. Allows a municipality to adopt an ordinance providing for meal expense advances for a municipal employee who will be traveling on official business. Increases from \$100 to \$250 the maximum amount that a violations clerk may accept for payment of ordinance violations. Provides that the amount that may be accepted shall be set by ordinance. Increases the cost threshold at which bids are required for certain political subdivisions under the local public works statute to \$50,000. Specifies that small towns and certain other political subdivisions can use the same process that third class cities and large towns use involving requests for quotes when a public work project is estimated to cost at least \$25,000 and less than \$50,000. Eliminates the requirement that a city legislative body hold its first regular meeting of the year at 7:30 p.m. on a Monday. Establishes a deadline of September 30 for a municipality to address property tax and budget matters and to set employee compensation for the following year. Provides that, beginning July 1, 2007, the trustee of each township in Lake, Porter, and LaPorte counties shall appoint a member to the northwestern Indiana regional planning commission if the township: (1) has a population of at least 8,000; and (2) does not contain a municipality. Reestablishes the northwest Indiana transportation study commission. (The existing northwest Indiana transportation study commission expired November 2, 2005.) Authorizes a municipality to establish a sewer improvement and extension fund and impose assessments to finance the construction, repair, or improvement of a sewage works. Provides that assessments are imposed and collected in the same manner as Barrett Law assessments. Adds the following two members to the board of the regional bus authority serving Lake County and Porter County: (1) One member appointed by the township trustee of the township containing the towns of Chesterton, Porter, Burns Harbor, and Dune Acres. (2) One member appointed jointly by the township trustees of Washington, Morgan, Pleasant,

Boone, Union, Porter, Jackson, Liberty, and Pine townships in Porter County. Deletes a provision specifying that members of the board from Porter County may not vote on certain issues unless Porter County makes payments to the authority. Changes the definition of "newspaper" for purposes of the statutes concerning publication of notices. Specifies that in a year in which there is not an election of members to the township board, the township board may by unanimous vote reduce the salaries of the members of the township board by any amount. Provides that compensation of city officers and employees may be increased by the mayor during the budget year for which the compensation has been fixed. (Current law allows the mayor to decrease compensation.) Specifies certain actions that entities may take after entering into an interlocal cooperation agreement related to economic development projects. Provides that in the case of a town that has a population of less than 10,000 and that changes into a city, the ordinance dividing the town into city legislative body districts may provide that: (1) the city shall be divided into three districts; and (2) the legislative body of the city is composed of three members elected from the districts and two at-large members. Deletes the \$25 limit on postage and publication costs that can be included in the minimum bid amount and provides that the price of property sold at a tax sale includes the greater of \$25 or the amount of the postage and publication costs. Requires certain orders under the unsafe building law to also be served on persons having a present possessory interest in the premises. Specifies that a person with a property interest in an unsafe premises who does not: (1) record an instrument reflecting the interest; or (2) provide to the enforcement authority the person's name and address, and the location of the unsafe premises; is deemed to consent to reasonable action taken under the unsafe building law for which notice would be required and relinquishes a claim to notice. Provides that liens for special assessments have the same priority status as liens for property taxes. Increases the interest rate on delinquent tax payments made by mortgagees from 6% to 10% (the same rate applicable to tax sale purchasers). Specifies that real property for which any property taxes or special assessments are delinquent from the prior year's fall installment is eligible for tax sale if a county executive has certified to the county auditor that the real property is vacant or abandoned. Specifies that this property must be offered for sale in a different phase of the tax sale or on a different day of the tax sale than the phase or day at which other real property is offered for sale. Retains current law (property is eligible for tax sale if taxes or special assessments from the prior year's spring installment are delinquent) for all other real property. Provides that the statutes prohibiting certain persons from bidding at a tax sale do not prohibit the owner of a tract that is offered at a tax sale from bidding on that tract. Allows all counties to use a provision that currently allows only Marion County to designate certain delinquent properties for acquisition. Prohibits persons who have violated the unsafe building law from bidding at tax sales. Provides that a sale to an ineligible bidder is subject to forfeiture, based on the determination of the county treasurer. Provides that in the event of forfeiture, the amount of the bid will be applied to the amounts owed by the ineligible bidder and a certificate for the property shall be issued to the county executive. Repeals a provision authorizing a second tax sale. Provides that property not sold at the single tax sale shall be transferred to the county executive (or the metropolitan development commission, in the case of Marion County). Provides an alternate date (51 days after the tax payment is due) by which the county treasurer may certify to the county auditor the list of property for which

taxes are delinquent. Specifies that a tax sale of a tract or item of real property must be made not later than 171 days after the list containing the tract or item of real property is certified to the county auditor. Specifies that persons prohibited from purchasing property at a tax sale are also prohibited from purchasing certificates of sale. Provides that when real property is redeemed and the certificate of sale is surrendered to the county auditor, the purchaser of the certificate of sale or the purchaser's assignee is entitled to receive from the county an amount equal to: (1) the amount received by the county treasurer for redemption; minus (2) if the certificate of sale was sold for less than the minimum bid, an amount equal to the difference between the minimum bid and the amount for which the certificate was sold. Replaces the term "county commissioners" with "county executive" in the tax sale statutes. Allows the county executive or metropolitan development commission to hold, manage, maintain, use, convey, or dispose for any redevelopment purposes those properties not sold for the minimum bid. Gives redevelopment commissions and the metropolitan redevelopment commission additional powers concerning the disposition of tax sale properties. Allows a hearing authority under the unsafe building law to impose fines and additional civil penalties under certain circumstances. Allows the civil penalties and fines to be collected under the special assessment procedures. Increases the amount of a civil penalty that may be imposed by a court under the unsafe building law from \$1,000 to \$5,000. Provides that a hearing authority under the unsafe building law may impose additional civil penalties if the hearing authority finds that: (1) significant work on the premises to comply with the original order has not been accomplished; and (2) the premises have a negative effect on property values or the quality of life of the surrounding area or the premises require the provision of services by local government in excess of the services required by ordinary properties. Allows a court to require a performance bond from a property owner if the property owner requests additional time to comply with an order under the unsafe building law. Amends the notice requirements for certain actions under the unsafe building law. Provides that in the case of a tax sale purchase that may be forfeited because the purchaser owes delinquent taxes or assessments, the county treasurer must notify the person in writing that the sale is subject to forfeiture if the person does not pay the amounts that the person owes within 30 days of the notice. Provides that if a county executive disposes of real property, the property taxes collected for the real property in the first year the real property is subject to taxation after the year the real property is sold or otherwise conveyed shall be disbursed to the county executive that sold or otherwise conveyed the real property. Provides that the disbursements to the county executive must be deposited in the county general fund, the redevelopment fund, the unsafe building fund, or the housing trust fund. Specifies that this disbursement to the county executive terminates in the second year the item of real property is subject to taxation. Requires a local authority to make an engineering and traffic investigation before making certain speed limit changes inside and outside of an urban district. Provide that a local authority does not have to perform an engineering and traffic investigation to determine the proper maximum speed for local streets in an urban district if the local authority determines that the proper maximum speed in the urban district is not less than twenty-five (25) miles per hour. Makes other changes concerning local government **Effective:** Upon passage; January 1, 2006 (retroactive); July 1, 2006; January 1, 2007.

DIGEST OF HEA 1107

Author(s): Crouch, VanHaaften

Sponsor(s): Becker, Lutz

Citations Affected: IC 36-9.

Funding of emergency warning systems under the Barrett law. Provides that emergency warning systems may be funded under the county and municipal Barrett Law provisions. **Effective:** Upon passage.

DIGEST OF HEA 1362

Author(s): Beck, Bosma

Sponsor(s): Delph, Riegsecker

Citations Affected: IC 36-1-2; IC 36-1.5.

Local government reorganization. Establishes a uniform procedure for the reorganization of political subdivisions. Provides that "political subdivision" does not include a local hospital authority or corporation. Provides that the reorganization process may be initiated by the legislative bodies of the reorganizing political subdivisions or by a petition signed by 5% of the voters in the reorganizing political subdivisions (as determined by the vote cast in the political subdivision for secretary of state at the most recent general election). Requires the reorganizing political subdivisions to appoint individuals to a reorganization committee to develop a plan for reorganization. Provides that political subdivisions and reorganization committees acting under the reorganization statute are subject to the open door law and the public records law. Specifies the elements that must be included in the plan. Provides that the proposed reorganization shall be submitted to the voters for approval if the plan is approved by the legislative bodies of the political subdivisions or, in some circumstances, if at least 10% of the voters in a political subdivision (as determined by the vote cast in the political subdivision for secretary of state at the most recent general election) submit a petition approving the plan of reorganization and requesting the public question to be held. Provides that a reorganization may occur only if the voters of the reorganizing political subdivisions approve the reorganization in the public question. Provides that in the case of a proposed reorganization between a county and a municipality, the legislative bodies of the reorganizing political subdivisions must agree on whether the public question on the proposed reorganization shall be: (1) conducted on a county-wide basis, without a rejection threshold; or (2) conducted on a county-wide basis, with a rejection threshold. Provides that in the case of a proposed reorganization between a county and a municipality, the reorganization committee shall include in the reorganization plan the percentage of voters voting on the public question regarding the proposed reorganization who must vote in favor of the proposed reorganization, on a county-wide basis, for the public question to be approved (the "county-wide vote approval percentage"). Provides that if the legislative bodies agree that the public question shall include a rejection threshold, the reorganization committee shall determine that rejection threshold percentage. Specifies that the rejection threshold must be the same for each municipality that is a party to the proposed reorganization and to the county that is a party to the proposed reorganization. Provides that in the case of a proposed reorganization between a county and a municipality, the reorganization is approved only if: (1) the percentage of voters voting on the public question who vote, on a county-wide basis, in favor of the

proposed reorganization is at least equal to the county-wide vote approval percentage included in reorganization plan; and (2) if the legislative bodies have agreed to include a rejection threshold, the percentage of voters of the county (excluding the voters of the reorganizing municipalities) voting on the public question who vote against the reorganization is less than a rejection threshold specified in the final reorganization plan and the percentage of voters of each reorganizing municipality voting on the public question who vote against the reorganization is less than the rejection threshold specified in the final reorganization plan. Requires the department of local government finance to adjust the maximum property tax levies, maximum property tax rates, and budgets of political subdivisions that reorganize. Provides that: (1) indebtedness that was incurred by a political subdivision before the reorganization may not be imposed on taxpayers that were not responsible for payment of the indebtedness before the reorganization and must be paid by the taxpayers that were responsible for payment of the indebtedness before the reorganization; and (2) pension obligations existing as of the effective date of the reorganization may not be imposed on taxpayers that were not responsible for payment of the pension obligations before the reorganization and must be paid by the taxpayers that were responsible for payment of the pension obligations before the reorganization. Provides that when the reorganization is effective, all the participating political subdivisions except the remaining reorganized political subdivision cease to exist. Makes related changes. Establishes a procedure for political subdivisions to enter into cooperative agreements and provide for the transfer of functions of an employee or department of the political subdivision (including an elected office) to another employee or department of any political subdivision that has entered into the cooperative agreement. Provides that the cooperative agreements must be initiated and approved in the same manner that is set forth in the bill for the reorganization of political subdivisions.

Effective: Upon passage.

DIGEST OF SEA 35

Author(s): Long, Simpson
Sponsor(s): Wolkins, Moses
Citations Affected: IC 36-7.

Provides that, with certain exceptions, the granting of building permits, approvals for construction or development, and certain other permits is governed for at least three years after a person applies for a permit by the law, rules, and approvals in effect at the time that the applicant applies for the permit. Specifies that the provisions concerning application of laws, rules, and regulations in effect at the time of application for a permit do not apply if the development or other activity to which the permit relates is not completed within seven years after the development or activity is commenced. **Effective:** Upon passage.

DIGEST OF SEA 55

Author(s): Harrison, Kenley
Sponsor(s): Buell, Kromkowski
Citations Affected: IC 36-8; noncode.

Public safety deferred retirement option plan. For members of the 1925 fund, the 1937 fund, or the 1953 fund, ties the expiration of the public safety deferred retirement option plan (DROP) to the expiration of distributions from the pension relief fund that ensure that at least 50% of the pension liability of each unit of local government is paid from the pension relief fund. For members of the 1977 fund, eliminates the expiration of the DROP. Provides that the death benefits for an employee beneficiary of a county retirement plan established by the sheriff's department who dies in the line of duty are calculated under the provisions of the county's retirement plan as if the employee beneficiary had never entered a DROP, if: (1) the employee beneficiary dies in the line of duty before payment of the employee beneficiary's monthly pension amount begins; and (2) the calculation of a death benefit under the provisions of a county's retirement plan depends upon whether an employee beneficiary dies in the line of duty or other than in the line of duty. **Effective:** January 1, 2006 (retroactive); July 1, 2006.

DIGEST OF SEA 94

Author(s): R. Meeks, Hershman
Sponsor(s): Dodge
Citations Affected: Noncode.

Lakes management work group. Establishes the lake management work group to study issues concerning public freshwater lakes. **Effective:** July 1, 2006.

DIGEST OF SEA 259

Author(s): Kenley
Sponsor(s): Espich
Citations Affected: IC 5-1-17-9.5; IC 5-1-17-18.5; IC 34-30-2-8.5; IC 36-1-12-13.1; IC 36-1-12-14; IC 36-7-31-14.1.

Stadium funding and contracts. Provides immunity from personal liability and accountability to the members, executive director, officers, and employees of the Indiana stadium and convention building (ISCB) authority for acts authorized by the ISCB authority's enabling statute. Provides conditions under which the ISCB authority may negotiate with a single bidder. Permits the ISCB authority to waive payment bond and performance bond requirements for contracts for capital improvement projects under certain conditions if an adequate alternative is provided. Provides for the termination of the annual capture of \$11,000,000 of state revenue for use to pay obligations owed by the Marion County capital improvement board to the Indiana stadium and convention building authority or a state agency. Provides that after January 1, 2010, the annual capture terminates in the year following the first year when none of the obligations remain outstanding. **Effective:** Upon passage; May 15, 2005 (retroactive); July 1, 2006.

DIGEST OF SEA 277

Author(s): Rogers, Riegsecker, Landske
Sponsor(s): C. Brown, V. Smith
Citations Affected: IC 36-10.

Genesis Convention Center board of managers. Provides that the Gary city council may adopt an ordinance providing for the payment of a salary or a per diem to members

of the board of managers of the Genesis Convention Center who do not hold another lucrative office. **Effective:** July 1, 2006.

DIGEST OF SEA 283

Author(s): R. Young, Heinold, Delph, Craycraft, Wyss, Skinner
Sponsor(s): Bischoff, Ruppel
Citations Affected: IC 36-8.

Emergency telephone notification system. Authorizes a county or municipality to establish an emergency telephone notification system to warn service users of emergencies. Grants civil immunity to a service supplier or telephone company in conjunction with operating an emergency telephone notification system. **Effective:** July 1, 2006.

NONCODE

DIGEST OF HEA 1023

Author(s): Ayres, T.Brown, C.Brown, Cheney
Sponsor(s): Heinold, Miller, Tallian
Citations Affected: Noncode.

Addiction treatment facilities. Allows certain addiction treatment facilities to be located in a county that is contiguous to a county with an existing facility. **Effective:** Upon passage.

DIGEST OF HEA 1285

Author(s): Heim, Walorski, Koch
Sponsor(s): Heinold, Weatherwax, Hershman
Citations Affected: Noncode.

Requires the environmental quality service council to study and make findings and recommendations concerning: (1) the most effective ways of implementing the Renewable Fuels Standards of the federal Energy Policy Act of 2005 in Indiana; (2) the feasibility of requiring motor vehicles sold in Indiana to meet the flexible fuel vehicle standards of 85% ethanol (E85) motor fuel for gasoline powered motor vehicles and 20% biodiesel (B20) motor fuel for diesel powered motor vehicles; (3) the regulation of outdoor wood-burning furnaces; and (4) the use of methane gas from landfills and anaerobic digestion as a fuel source. **Effective:** Upon passage.

DIGEST OF HEA 1314

Author(s): Klinker, Thompson, Ulmer, Mays, Tyler, Goodin
Sponsor(s): Lawson, Simpson, Dillon, Rogers
Citations Affected: Noncode.

Substance and alcohol use during pregnancy. Requires the state department of health to study the use of drugs, alcohol, and tobacco by pregnant women. Requires the study to be completed and a report to be submitted to the legislative council and the health finance commission before October 1, 2006. **Effective:** Upon passage.

DIGEST OF SEA 42

Author(s): Miller

Sponsor(s): Frizzell
Citations Affected: Noncode.

FSSA evaluation survey. Requires the family and social services administration (FSSA) to provide certain information to the evaluation staff or a contractor of the legislative services agency. Allows the legislative services agency to contract with a research organization to perform any part of the survey. **Effective:** January 1, 2006 (retroactive).

DIGEST OF SEA 169

Author(s): Miller, Howard
Sponsor(s): T. Brown, C. Brown
Citations Affected: Noncode.

Extension of nursing facility assessment fee. Extends collection of the nursing facility quality assessment until August 1, 2007. **Effective:** July 1, 2006.

DIGEST OF SEA 173

Author(s): Lubbers
Sponsor(s): Behning
Citations Affected: Noncode.

Informational student counts. Requires an informational count of eligible pupils on May 1 of 2007, 2008, and 2009. **Effective:** July 1, 2006.

DIGEST OF SEA 231

Author(s): Alting
Sponsor(s): Behning, Klinker, T. Brown, Micon
Citations Affected: Noncode.

Academic honors diploma grants. Allows a school corporation to use its academic honors diploma award to purchase savings bonds for students graduating in 2006 and 2007 who earn an academic honors diploma. Allows a public high school to honor any commitment given and published in a student handbook concerning academic honors before January 1, 2005 for students graduating in 2005, 2006 and 2007. **Effective:** January 1, 2005 (retroactive); January 1, 2006 (retroactive).

DIGEST OF SEA 308

Author(s): Simpson, Miller, Lanane, Lawson, Breaux, Sipes
Sponsor(s): T. Brown, Welch, Tyler
Citations Affected: Noncode.

Medicaid income spend down. Allows the office of Medicaid policy and planning to apply for federal approval to amend the state Medicaid plan to include a pay-in option under which a Medicaid recipient may satisfy the state's income spend down requirements by paying to the state the spend down amount each month. **Effective:** Upon passage.

OTHER

DIGEST OF HEA 1040

Author(s): Foley, Thomas
Sponsor(s): Kenley, Landske, Bowser

Citations Affected: Numerous provisions throughout the Indiana Code. Technical corrections bill. Corrects various technical problems in the Indiana Code and in noncode provisions. **Effective:** Upon passage.

DIGEST OF HEA 1134

Author(s): Foley, Behning, Kuzman, VanHaaften

Sponsor(s): Landske, Kenley, Bowser

Citations Affected: Numerous provisions throughout the Indiana Code.

Recodification of Title 21 and related provisions. Recodifies the grade K-12 education finance law, including teacher pension and education property tax control provisions, without substantive change. Makes conforming amendments. Repeals: (1) provisions in IC 6-1.1-19 and Title 21 that are recodified by this bill; and (2) various obsolete education finance law provisions. **Effective:** July 1, 2006.

DIGEST OF SEA 132

Author(s): Lawson, Breaux

Sponsor(s): Budak, Summers

Citations Affected: Numerous provisions throughout the Indiana Code.

Correction of 2005 child services legislation. Makes technical corrections as directed by Senate Enrolled Act 529-2005. Relocates appropriation provisions in current law to a new location in the Indiana Code. Repeals obsolete provisions and provisions being moved to a new location. Provides that certain license applications may be denied or revoked if an employee or volunteer of the applicant or licensee have certain criminal convictions. Provides that a person may not operate a child caring institution and a child placing agency may not operate a foster family home if the number of children exceeds the number authorized by the license or if the children are maintained in a place not designated by the license. Creates the division of family resources child care fund and the department of child services child care fund. Provides that on June 30, 2006, the balance of the child care fund shall be transferred to the division of family resources child care fund. Specifies to whom a criminal history background check requirement applies. Requires applicants of certain licenses to conduct criminal history checks of certain employees and volunteers. Provides that the department of child services (department) shall inform certain applicants of licenses if the department has information that a person has been identified as a perpetrator of abuse or neglect. **Effective:** Upon passage; July 1, 2006.

AMENDING OF THE INDIANA CONSTITUTION

DIGEST OF SJR 2

Author(s): Lawson

Sponsor(s): Richardson, Thomas

Citations Affected: Article 2 of the Constitution of the State of Indiana.

Overseas voters. Provides that the general assembly may extend the right to vote to an individual who: (1) is the child of an individual who is a registered Indiana voter; and (2) currently resides outside the United States; if the individual meets all of the constitutional qualifications for a voter other than residence in an Indiana precinct. **Effective:** This proposed amendment has not been previously agreed to by a general assembly.

STATE OF THE STATE

GOVERNOR MITCHELL E. DANIELS, JR.

Wednesday, January 11, 2006

STATE OF THE STATE ADDRESS

GOV. MITCHELL E. DANIELS, JR.

1/11/06

Mr. Speaker, Mr. President, Members of the Assembly, friends and neighbors:

You provide me the privilege of this podium for just the second time, but I know that the excitement I feel on these occasions will never fade. Coming together, in the presence of our fellow citizens, to assess the condition of our state, and of its governance, and to think together about plans for its future greatness – surely everyone here feels as honored as I do just to be present.

When we met last year, I described the state of our state as “far from sound”, and “in need of serious attention.” I noted that state government was broke, and broken. That we were far behind in making the changes needed to restore income to Hoosier paychecks, and an atmosphere of opportunity that persuades our young people to stay and build their lives here.

By any honest account, those descriptions remain true tonight. None of the problems that gave birth to Indiana’s change movement is behind us, or nearly so. But that is not to say that nothing is different in Indiana from a year ago. In fact, we are a vastly different place.

In the last year, we have become more progressive, adopting approaches to government widely used in other states, but new to us. We have become more forward-looking, building toward a great future, not merely scraping by through a present of struggles. We have become more activist, tackling our problems with vigor not half-measures, confidence not resignation, risk-taking not timidity.

As an utterly forgettable young infielder, I heard far too often the coaches shout “Daniels, don’t let the ball play you.” They meant to get off your heels and move forward, advance on ground balls and field them before it was too late. If you mishandled the first attempt, there would still be time to try again and throw the runner out at first.

Indiana is no longer on its heels, waiting while our problems bounce past us or through our legs. Even though the inning is still an early one, we are moving forward against our challenges. We are playing the ball.

We saw a bankrupt state government, and we acted.

A \$2 billion surplus had evaporated; several straight budgets had spent more than was coming in; schools and local governments had been stiffed, and thus forced to borrow, through delayed payments of over \$700 million. Some said, “Go slow. A decade of deficits can’t be fixed in one budget. It took years to get into this hole, it will take years to get out.”

But we said, “No.” We said, “Now.” First, we have a constitutional duty to balance the budget, and without gimmicks. Second, the sooner we get the boat bailed out and upright, the sooner we can set a course for the new investments and improvements Indiana needs.

Together, we passed the leanest state budget in a half century. Spending in most areas was held constant, or less. The only increases, modest ones at that, were for schools, transfers to local

government, child protection, and Medicaid. We asked special interests to back off a little, to think for once about the good of all, to work with us and put our state back in the black. With exceptions, they did.

And we have results. Tonight, with a half-year of this first budget behind us, we are in a position to forecast that Indiana will have a balanced budget for the first time in ten years, and not after two years as the budget contemplated, but after only one, by June 30 of this year. Congratulations to all who helped.

We are not ahead of schedule because of good luck. Revenues received, aside from our very successful tax amnesty program, are no better than expected. We are ahead of schedule because our New Crew of reform-minded public servants is finding ways, every day, to reduce waste and stretch tax dollars.

We stopped cooking our own prison food in 26 separate kitchens and saved \$12 million, while food quality improved. We discovered and cancelled maintenance contracts on equipment the state no longer owns.

We ended sweetheart deals and began negotiating as though tax dollars were our own. We no longer pay \$8000 for a copier machine we can get for \$4500; we no longer buy ball point pens department by department for \$1.02 when we can get them in bulk for 48 cents. Our millions of driver's licenses now cost a dollar, not \$1.52 each to produce.

Over 2000 state-owned vehicles have gone to the auction block; eight aircraft and a raft of unneeded real estate are on their way there.

By the way, if anyone would like to buy a rocking chair, purchased by state government for \$2000 each, from Texas of all places, we have ten for sale.

Hundreds of savings, some large but most small by themselves, total up to over \$200 million in reduced spending so far. To those who belittle our concern with such matters, we say never forget that some Hoosier worked hard for every one of those dollars, and it is an obscenity for government to waste it or to spend it less efficiently than is humanly possible.

A prudent family pays down its credit cards before it buys a new car. As a first dividend from our fiscal recovery program, I am directing tonight that \$156 million of the extra proceeds from our amnesty success be used for a special distribution to Indiana's public schools, repaying half of the funds withheld from our school systems during the previous era of deficit spending.

Balancing the people's books is a solemn duty, but it is not the whole business, or the true purpose of government. That highest purpose is to provide excellent public service to citizens at the lowest possible cost to taxpayers.

We saw state government that, in far too many places, was slow, incompetent, or even shamed by dishonesty and scandal. We saw backlogs, waiting lists, and unmet needs. We acted, and we have results.

Every problem we inherited remains to some extent, but everywhere progress has begun. The backlogs of tax filings, environmental permits, minority business certifications, medical

disability and unemployment claims have been slashed or eliminated. The child support system that was collecting only half the money owed to single moms has begun to improve, and at \$6 million each, every percentage point really counts. One hundred new caseworkers are trained and on the job protecting vulnerable children, and the nation's largest caseloads are on their way down.

We saw what methamphetamine was doing to the small towns and families of our state, and launched the nation's most all-out effort to combat it. Meth production has been cut in half, the backlog at the evidence lab is down by two-thirds, the nation's first meth treatment prison wards are up and operating, and other states, for once, are copying us.

We built a system to connect low-income Hoosiers with discounts on their prescription drugs, and have already helped 100,000 to slash their medication costs. At no cost to taxpayers, Rx for Indiana has helped 5 times the number served by the state's previous effort, and delivered twenty or more times the savings to poorer citizens who can really use the help. Standing in for thousands of volunteers who made those savings possible is a woman who singlehandedly helped two hundred neighbors in need; please help me thank Jennifer Nelson of Terre Haute.

We said the people's business should be done more openly, and, with your help, we have results. Those who lobby the executive branch about rulemaking or contracts now must register their activity for all to see. Contract decisions are posted on the web, for all to see. Campaign finance disclosures will now be filed twice as often.

Rules against gifts, and penalties for violating the public trust have been stiffened. The revolving door has been locked; public employees offered jobs by those doing business with the state must now wait at least a year before taking them.

Because tougher rules alone will never make men angels, we established an Inspector General. There is now a place for the whistles of whistleblowers to be heard. Now that people know wrongdoing will be acted on, whistles are blowing, ten times as often as a year ago. Thirty-three cases have been referred for prosecution, and the word is spreading: if you're thinking about cheating the taxpayer, pick another state than Indiana.

One typical whistleblower, who turned down a bribe and turned in the wrongdoer, is with us tonight, representing that overwhelming majority of public employees who want to work in a clean, efficient state government. Please help me recognize Teresa Marshall of Shelbyville.

Citizens who see their government wasting money on little things cannot be expected to trust it when it seeks to do big things. Those who watch government make a botch of the simplest service, with no serious effort to reform or improve itself, are justified in a cynicism that poisons our ability to unite around common goals.

So we will continue challenging old ways, trying new approaches, setting higher targets and measuring everything along the way, knowing that we must never be satisfied but taking heart from the dramatic improvements we are recording every day.

Even as we press on with the work already begun, there is essential new work to commence.

No area of responsibility must concern us more than public education, and no area intersects

more with our other problems. As, far and away, the state's most expensive spending category, education cannot be separated from our fiscal responsibilities. And no factor will do more to determine Indiana's future economic health than the quality of the learning in our public schools.

At \$10,000 per student, Indiana occupies a proud position near the top of states in commitment to public education. At \$1.14 of their income for every dollar spent in the average state, Hoosiers dig deeper to support their schools than almost any citizens in America. Our commitment to our schools is a reason for pride and must never waver.

But are our children getting as much education as possible from all this money? Last year at this speech, I pointed out that we sometimes seem to elevate construction over instruction. The average school building here costs almost half again what is spent in the rest of the country. Debt service on school buildings is 3 times the national average, and by far the biggest driver of higher property tax bills.

We addressed that imbalance with common sense rules that simply say, if you are planning a building that will cost above the national average, think twice, and show cause before proceeding. Since those simple rules went into place, no request has been rejected, but \$87 million that we know of has been trimmed voluntarily from local school borrowing proposals.

This year, we must seize another opportunity to shift more dollars to the classroom, where it matters most. We spend more dollars than most states, but all too often, we don't spend them where the kids are. Consider that well under half of Indiana school employees are teachers, one of the lowest ratios in America.

Ignore for a moment our excessive construction costs; only 61 per cent of operating expenses reach the classroom, compared to a national best approaching 70%. Hundreds of millions that could be going for more teachers, higher teacher pay, cheaper text books, or new programs like all-day kindergarten, extra math and science tutoring, or a longer school year, go instead to administrative and support costs. We could have smaller classrooms, smaller schools, better-paid teachers and new programs just by making even small improvements in the way we spend our school dollar.

At \$10 billion of total spending, every one per cent shift of dollars from overhead to the classroom could fund 1500 new teachers, or buy every high school student a computer.

No superintendent I've met wants to waste money in the back office that could be spent on the front lines of education. Our school administrators should be permitted to opt out of expensive state requirements that consume time and money but add little or nothing to student achievement.

And they need new authority and new tools to conserve and stretch precious dollars. In most cases, our 292 school corporations operate on their own: they buy things as cheap as supplies or as costly as insurance and energy with no collaboration and no economies of scale. In many states, all school buses are bought centrally, at prices thousands of dollars per bus lower than Indiana schools are paying.

It is time to make more of our school dollars available to teachers and the purposes that matter most. Let's catch up and pass other states in the efficiency of our school spending. I am sending

to the General Assembly a package of reforms to enable our school officials to conserve scarce dollars and redeploy them to the classrooms and the teachers of our state.

If the machinery of state government was due for an overhaul, our local level needs an extreme makeover. How ironic that Indiana, by reputation cautious about Big Government, leads the nation in the number of politicians we elect. How curious that Hoosiers, strong believers in local control, have imprisoned mayors and county officers in a system that prevents major change without state approval.

Redundant and antiquated government makes property taxes too high and decision making too slow. Scattered authority produces bizarre tax assessments in which identical houses just blocks apart are taxed at widely different levels. Like our other challenges, change will take many years, but it is past time to begin.

The days of top-down control of local affairs from Indianapolis have run their course. As I did last year, I call on the General Assembly to liberate localities to raise funds from sources other than the overused and unfair property tax. And to begin assuming the costs of caring for endangered and abandoned children at the state level, also reducing property tax burdens in every county. And to offer blanket pre-approval to any community or school corporation that wishes to combine with its neighbor or consolidate duplicative layers of government. Let our traditional "creature of the state" system begin giving way to a new era of home rule and local autonomy across our state.

But there is an essential tradeoff implicit in this new freedom. Cities, counties, and school districts must become partners in reform, supporting and leading in the reduction of overhead and the elimination of excess. I ask the local officials of our state to endorse and help effect the end of the archaic township assessment system and the transfer of this failed process to the level of our 92 counties.

My fellow citizens, there are sprints, and there are marathons.

A balanced budget is already in sight. Reform of state government is well underway, and changes in local government will come in time.

But the reversal of economic decline, and then the climb to leadership, will not be the work of weeks, or even a few years. Only boldness, and imagination, and then the fortitude to sustain pro-growth policies will suffice to turn around decades of erosion.

It cannot be said too often. Governments do not "run" economies. They do not create jobs or wealth. At their worst, they destroy jobs, or drive them to other, friendlier locations. At their best, they establish an environment in which free men and women, pursuing their dreams and best ideas, create wealth for each other.

In 2005, we made Indiana a much more growth-friendly place. Taxes on research and development and small business were reduced. We have reordered state government, in every relevant activity, to become an ally and not an obstacle to growth. A new public-private job-seeking agency replaced a failed state bureaucracy and closed more deals with companies investing in Indiana than in the previous two years combined.

We placed special emphasis on the suffering small towns and rural spaces of our state. We went all-out and saved the Crane naval research center. We launched the most pro-agriculture program in decades, and, in one year, Indiana has moved from nowhere to national leadership in biofuels. During 2006, ten or more new ethanol and biodiesel plants will open across our state. The Indiana economy is still facing upstream, but at least now we are swimming.

Perhaps the single most important step government can take for our economic future is to ensure the best possible infrastructure, the strongest possible framework, to support the businesses of tomorrow.

In a wired world, “infrastructure” no longer means just roads, rail lines, or waterways but also the invisible fibers and frequencies over which today’s most vital and valuable commerce is transacted. It is time to modernize a telecommunications regulatory system set up for the age of monopolies and copper wire to unleash this century’s most dynamic, diverse and competitive technologies. Two decades ago, Indiana waited too long, left an outmoded regulatory regime in place, and lost its in-state banks as a result. This time, let’s be among the leaders in freeing investors to connect our businesses, small towns, and homes to the unseen skeleton of the New Economy.

The emergence of invisible infrastructure does not mean that the backbone we can see is less important. In fact, to a state that sits at the “crossroads of America”, nothing is more crucial to our economic future than the best network for moving goods in, out, and through to the markets of America and the world.

It is within our grasp to create that network. To connect even the smallest community of Indiana to the world economy in a way that gives us a competitive advantage over other states. To make “Major Moves” into a future of extended manufacturing superiority and a position as the nation’s logistics capital.

Business as usual will never get it done. As matters stand, we’ll have fewer than half the dollars needed to build the roads, bridges, rail lines and airports our economy needs and, in most cases, Hoosiers have been promised. Without new approaches, long-sought projects like US 31, the Hoosier Heartland Corridor, new Ohio River bridges, the Gary-Chicago Airport, I-69, and dozens of others will continue to languish on the drawing boards where they have been for too long already. And the thousands of new jobs that could be created in businesses that build them or locate near them will never come into existence.

The plan we call “Major Moves” would trigger tremendous job growth using in large part a very handy tool: other people’s money. Two thirds of the tolls paid on the Indiana Toll Road are paid by out-of-state motorists.

If we can interest private firms in putting their own money into the construction of I-69 and perhaps other expensive projects, recapturing that investment through tolls paid largely by non-Hoosiers, by all means let’s do. And if, a big if, private firms are willing to offer Indiana a very large sum of money today for the right to operate our northern toll road over time, we would be foolish not to seize that opportunity, and make the dreams of decades a reality in our time.

With ten days to go, we have good reason to believe that one of many active bidders will offer

the state an amount far beyond anything we could generate ourselves. If such an offer does not materialize, we have lost nothing. If it does, I will recommend to the General Assembly that we capture those dollars and reinvest them in the nation's boldest transportation program, from one end of our state to the other, putting thousands of Hoosiers to work every step of the way.

We must move on one more long-term barrier to bigger paychecks, as well as a higher quality in the lives Hoosiers lead. It's a troublesome truth that ours is one of the least healthy states in America. We weigh, drink, and smoke too much, and exercise too little. So it's no accident that we have some of the highest health care costs anywhere, a barrier in the way of the new jobs we seek.

Our InShape Indiana initiative is off to a reasonable start, with thousands of citizens signing up to pay more attention to basic principles of wellness. But no single step we could take would matter more than reducing the percentage of Hoosiers, particularly young Hoosiers, who smoke cigarettes. All the evidence shows that the most effective way to deter young smokers is at the cash register. I ask this Assembly to raise Indiana's lowest-in-the-Midwest cigarette tax by at least 25 cents a pack.

The first steps of any race are critical. Our first steps have been fast ones, strong and straight. But the ground we must cover to catch up to accumulated problems, and overtake other states of this country, will be a long and demanding one.

At the gym I frequent, I sometimes run with – or, more accurately, run far behind – a friend named Sunder Nix. If the name is familiar, it is because Mr. Nix is an Indiana sports hero, a gold medalist at the '84 Olympics and a 400-meter specialist.

Sunder tells me that, although the first or "drive" phase of a race is key, the second stage is likewise. In this "transition" segment, his goal is to maintain the speed he has attained through a fast start. "Whatever you do," he teaches, "don't lose your momentum."

Momentum for change has been established in Indiana. We have already taken steps people said were not possible. This is no time to rest, let alone pull up lame. We must gather confidence and courage from the fast start behind us and head straight for the next set of goals: more money in our classrooms, the exchange of 19th Century institutions for 21st Century models, and brave, bold moves to build a backbone for a new generation of great jobs.

To those of our fellow citizens for whom all this seems like too much change too fast, we say, "We understand." Who among us doesn't wish now and then that someone would stop the world so we could all get off?

I've saved a recent quote from a Lafayette gentleman who spoke, I know, for many when he said "I'm an old-timer, and old-timers don't like change. I know I'm just that way and I don't have to have a reason for anything." To that good man, and all like him, we do understand, but we offer you good reasons, a million of them. That's how many young people are enrolled in Indiana schools tonight, facing a life of competition far tougher, and more global, than anything today's workers ever knew.

Those kids are the million reasons that we cannot stand still in this state. That we cannot accept

mediocrity or middle of the pack status in any realm. That we must think big, aim high, and act boldly, to build for them the foundation, physical and institutional, on which they can construct bright futures, and do it here.

To this Assembly, I say "Lap One, well done." But the second phase is all-important. We don't have a single day, let alone a legislative session, to rest, or cruise, or hesitate. Let's move, let's act, let's play the ball aggressively, confident that we are a state whose potential exceeds its performance, determined that "good enough" never is, that catching up is merely a start, that true greatness lies ahead.

God bless you and this great state.

STATE OF THE JUDICIARY

CHIEF JUSTICE RANDALL T. SHEPARD

Thursday, January 12, 2006

**“Indiana’s Place in American Court Reform:
Rarely First, Occasionally Last, Frequently Early”**

State of the Judiciary Address

To a Joint Session of the Indiana General Assembly

By Chief Justice Randall T. Shepard

January 12, 2006

Governor Daniels and Members of the General Assembly:

In reporting to you about the state of Indiana’s judiciary, I often relate challenges and changes from the months just past. Today, I want to speak about a bigger picture, about where Indiana courts stand in the larger story of reinventing America’s courts. Where does Indiana fit in this broad effort at reform, and what do we contribute to it?

Areas of National Reform

Let me begin by mentioning areas in which the nation’s state courts face the greatest challenges.

Globalization. Justice John Paul Stevens gave a speech recently in Indianapolis about the effects of a globalizing world economy on the American court system and on the American legal profession. When an American employer strikes a commercial deal with a business partner in Asia or Europe, both parties need to understand how their own domestic law and customary international law will affect the transaction. Likewise, lawyers for the American company and lawyers for the company overseas need to help facilitate that transaction by plying their trade far away from the place where they are licensed. America’s state courts, as regulators of the bar, are actively examining how to support those arrangements, so important to our domestic economy.

The legal profession is likewise engaged in a massive effort to help new democracies like – those in Kosovo, Ukraine, Iraq, and Afghanistan – establish the rule of law, believing as most Americans do that a world with more democratic states possessing stable legal systems will be a safer place.

And, of course, globalization shows up in every state’s back yard in the form of immigrants for whom English is not the first language. State courts are active in devising ways to assure such people access to justice. Many people with language issues are too poor to even hire lawyers let alone interpreters, and finding new ways to provide legal help to them and to other low-income Americans is a national priority.

Families. Thousands of American judges spend every day asking themselves, “What can we do to strengthen American families and improve the lives of children?” Last year saw the release of a landmark report by a national commission that examined how government can do better for abused and neglected children. And so, in October there was a remarkable national summit of leaders in state courts and child protection agencies gathered to develop action plans to make that happen.

Ethics in Government. Judges and lawyers are in the middle of a major national effort to revise the rules of ethics that apply to courts so that we can assure our fellow citizens that fidelity to high standards is part of their judiciary. The scandal in Congressional lobbying makes this need become ever more apparent.

Correction, Guilt, and Innocence. The growing number of people in American jails and prisons compels a search for an effective, less expensive, means of dealing with offenders and deterring repeaters. The latest inventive projects with this aim focus on courts as institutions that help solve problems rather than as places that simply try cases. Judges and others have devised what are called “problem-solving courts”: drug courts, neighborhood courts, mental health courts, and re-entry courts, to name a few.

New Age and New Law. At least since deTocqueville’s tour of nineteenth century America, the country’s courtrooms have been places where the changes in American society show up quickly, presenting brand new legal questions: “What is privacy in the electronic age?” or “What do civil rights mean in the war on terror?” to name but two examples.

Jury Reform. At the heart of American justice stands the right to a trial by jury. There is a national movement, based in the state courts, to improve the selection of jurors, to give jurors better tools to do their work, and to help them understand the laws they should apply.

Reform Starts at Home

In thinking about how Indiana connects to these major national initiatives, I’ve come around to a description that fits Indiana’s position on the question of law reform, not just today, but through much of its history:

Rarely first, occasionally last, and frequently early.

There are examples that demonstrate this description from our history and from modern times. In 2003, for example, we celebrated the 100th anniversary of Indiana's first juvenile court, the third juvenile court in America, way ahead of everybody. In the 1970's, Indiana was the third state whose legislature adopted determinate sentencing, the regime under which most of the country has now operated for about a quarter century. In the 1980's, Indiana was the second state to adopt standards for the qualifications and compensation of lawyers who represent defendants in capital cases. In the 1990's, we were the sixth or seventh state to launch a project on jury reform. Rarely first, occasionally last, frequently early.

Indiana Is Connected to Every Effort at American Court Reform

So, what has Indiana been doing on the leading national priorities I described?

Globalization. Indiana courts have been front-line participants in devising lawyer rules to facilitate national and international commerce, first to adopt the uniform rule admitting foreign lawyers to reside here and advise on the law of their home country. Indiana has sent judges and prosecutors overseas, to places like Kosovo, Iraq, and Afghanistan, to assist in devising new constitutions and laws, and court rules. (And, since charity begins at home, we also sent people to the Gulf Coast to help rebuild courts and communities after Hurricane Katrina.) And, Indiana has become a place foreign judges want to visit. Most recently we hosted a delegation from Russia and one from Ukraine.

Families. You voted last year to require the appointment of a guardian or child advocate in every case in which a child has been abused or neglected. On this topic, Indiana has been both last and first. We were the last state to enact this comprehensive requirement – but as far as building a corps of people to speak for the abused child in court, last year there were more than 2,000 adult volunteers who worked with more than 16,000 Indiana children. Indiana has more local programs to recruit and train volunteers to represent the best interest of children than any other state.

Ethics. The national re-examination of the ethics rules for judges I mentioned is being led by the American Bar Association. I have been invited to serve as a standing adviser to the ABA's commission, but more importantly, the ABA has recruited two Hoosiers to do the heaviest intellectual lifting as reporters for the commission: Professor Charles Geyh of the law school at Bloomington and Professor Emeritus William Hodes of the law school at Indianapolis.

A close corollary of ethics reform is working to make government more accessible, more “transparent” as the current saying goes. Indiana has developed an award-winning project for public information and education about its courts. We do this in lots of different media, from printed materials to live lectures to public displays. And, of course, the Internet. On one day last September, more than 19,000 people visited our website.

Corrections and Problem-Solving. A drug court is not really a separate court but a court procedure under which the prosecutor and defense counsel consent to permit a defendant to avoid prison only if they comply with a tight set of treatment requirements and extremely close monitoring directly by the judge. Something like 35 percent of the people sent to drug courts would otherwise be holding down DOC beds, and the number of drug courts in Indiana is rising steadily. You passed legislation last year to strengthen this movement. The executive director of the national organization for drug court professionals is former judge and Attorney General Karen Freeman-Wilson of Gary.

Similar problem-solving techniques are applied in “re-entry courts.” As DOC Commissioner J. David Donahue says, “We can’t expect much when we push an offender out the prison door with \$75 and a set of clothes.” Re-entry courts mean we can expect more. The nation’s leading re-entry court is in Fort Wayne, Indiana, under the leadership of Judge John Surbeck.

New Age Law. On issues like privacy and consumer protection in the electronic age, any list of America’s top ten legal scholars would include Professor Fred Cate of Bloomington. Professor Cate is one of the jewels of Indiana’s legal community, and he helps the profession and the courts in a host of ways. These include advising our effort under the leadership of Justice Brent Dickson to devise new practices for improving public access to court records without making life easy for identity thieves or domestic abusers.

Legal Help for the Poor. Many states have long used a system to gather otherwise uncollected interest from lawyer trust accounts as a way of helping people who need legal assistance. Indiana was the last state to implement such a system. But we were the first state to commit that resource to building a network of volunteer lawyers to assist low-income people. Last year Indiana attorneys contributed over 20,000 hours of time to indigent Hoosiers through this unique network.

Jury Reform. You know that we have made many improvements in how Indiana juries do their work, but I want to report on the newest one, effective just days ago. At the end of last year, we distributed to county clerks the best list of potential jurors ever devised. Justice Ted Boehm led an effort with assistance from the Bureau of Motor Vehicles, the Department of Revenue, Purdue University, and local court personnel that in the end produced a disc for each county containing non-duplicated, up-to-date names and addresses for use in mailing jury summons. We estimate that it includes 99 percent of the people living in Indiana who are eligible for jury service.

Why does that matter? For one thing, it will save a lot of money. In some counties, 40 percent of the jury notices come back as undeliverable.

But, there's a more important reason it matters. Americans treasure the idea that we are entitled to a "jury of our peers" but the fact is that many jury lists leave out lots of people, especially low-income people and minorities. This new initiative, a product of our Judicial Technology and Automation Committee, has produced the most inclusive list of possible jurors ever. The people summoned for jury duty now will be the most representative array of citizens in all the time since King John signed the Magna Carta in 1214. The country's leading experts in jury reform made this Indiana development the lead story in their national electronic newsletter under the headline "List Heaven."

Indiana Supplies Leaders

Having listed some of the ways Indiana connects to the leading court issues of the day, I suggest that Indiana contributes to national reform in two ways: we provide leaders, and we export new ideas.

First, in a host of settings, Indiana provides leaders for the national judiciary and the legal profession.

I recently made a business call to a judge in Seattle named Eileen Kato; she was national chair of the American Bar Association Conference of Specialized Court Judges. She said, "I know two of your colleagues." "Who?" Her successor as leader of this legion of judges is Judge Michael Witte of Lawrenceburg, Indiana. And she knew Frank Sullivan. "Justice Sullivan's been our leader," she said, "on a project to help more minority law school graduates get appellate court clerkships."

Judge Lorenzo Arredondo of Lake County has been director of the American Judicature Society, the country's leading group on judicial selection and ethics, and Judge John Baker of the Court of Appeals has served on the committee that devises education for appellate judges. Justice Sullivan now guides the ABA Appellate Judges Conference. Former Justice Myra Selby, now helping us on race and gender issues, earlier served on the body that accredits and therefore shapes America's 180 law schools.

Judges Margret Robb and Pat Riley of the Court of Appeals are recognized leaders in the National Association of Women Judges (and last year brought their annual meeting to Indianapolis). Judge Jim Payne, if he weren't now part of the Daniels Administration, would instead be today president of the National Council of Juvenile and Family Court Judges. Don Lundberg, who runs the Supreme Court's Disciplinary Commission, presently serves as treasurer of the National Association of Bar Counsel, the country's organization of lawyer disciplinary agencies. And not far from the judicial circle, it is an honor for our state that the fifty state attorneys general have chosen Attorney General Steve Carter as their president.

Indiana's contribution of national leaders goes well beyond judges and lawyers. Cathy Springer, the director of education at the Indiana Judicial Center, has lately become a member of the faculty and a member of the oversight committee for the number one place in America where people work on how to improve the continuing legal education of judges, the University of Memphis. Anne Davidson, assistant director of the Indiana Continuing Legal Education Commission, was recently president of the national association of organizations that oversee CLE for lawyers, a group called ORACLE. And, Cheri Harris of Indiana has recently become the executive director of ORACLE. (And indeed, we brought the offices of ORACLE here to Indiana.)

And the Judicial Family Institute, which helps spouses and children of judges navigate through judicial waters, was conceived and created by Justice Dickson's spouse, Jan Dickson, now widely regarded as having done more to help judicial families than any other single person in the country.

As you might expect, the people I've just mentioned, and others, fit under the old saying, "If you want something done, ask a busy person to do it." They are people who contribute more than most folks during their day jobs and somehow manage to provide leadership above and beyond, both here and elsewhere.

Indiana Exports Ideas

Second, and at least as important, Indiana is an exporter of ideas about better courts.

I will start with an example that even many judges in our state don't know about. There are two places in Indiana where we try most "mass tort" cases, litigation like asbestos claims. They are presided over by Judge Jeff Dywan in Lake County and Judge Ken Johnson in Marion County. When I spoke to a recent conference at the University of Chicago, the first judge I ran into said, "How's Ken Johnson? I wish we could use his system here in New Jersey." Judge Johnson has developed a case management system for mass torts that is the envy of other judges elsewhere. Why do you need a special system? There was one five-day period when Judge Johnson received 16,000 filings.

Indiana's pro bono plan, by which thousands of Hoosier lawyers volunteer their time to assist low-income people in need of legal assistance has been emulated by multiple states around the country.

On the problem of language, last year we certified the first interpreters qualified to translate formal courtroom testimony. We also need people in the county courthouses who can on a day-to-day basis communicate with persons who walk into the courthouse speaking mostly Spanish. So, last fall we completed a pilot program in Terre Haute, partnering with Ivy Tech, to train local court personnel in Spanish. Next month, we will launch it state-wide basis.

Most recent immigrants are people who speak Spanish, but we have people who appear in local courts speaking everything from Mandarin to Urdu. We're experimenting with a system designed for those situations called "Language Line," and so far we've used it to assist with people who spoke French, Somalian, Russian, Mongolian, Yeman, and Mextaco (a Mexican regional dialect). Last month, for example, Judge James Jarrette in Kosciusko County, had a defendant who spoke only Korean. He called our Division of State Court Administration and was quickly connected by telephone with a skilled interpreter who spoke Korean, so that people in the courtroom could understand her and she could understand them and the court could resolve the case based on full communication by all.

Quite aside from structural reform, Indiana has been a giver of useful caselaw. When I became Chief Justice, I said, "We want to be a court so well-regarded that judges in other states, when considering the toughest legal issues of our time, will be led to look at each other and ask, 'I wonder what Indiana has done about this.'"

Every few weeks, thousands of American lawyers receive the Supreme Court Reporter, the latest cases of the U.S. Supreme Court. The editors of this publication search the country for decisions from other courts that they think lawyers in America would want to know about and they feature these as “Judicial Highlights.” In one six-month period last year, ten of those were Indiana cases – representing issues from the death penalty to criminal sentencing to family law and consumer protection. It is a number far out of proportion to our state’s size and judicial output. This level of national recognition reflects the good job our appellate courts do, but it also reflects splendid work by Indiana lawyers and trial judges who skillfully litigate these cases long before the appeals reach this building. I’ve always wanted to work in a place where common sense and first-rate legal thinking were the order of the day. And I do.

Thanks for Your Confidence

It has always seemed to me that our state’s bench ought to have its feet firmly planted on Indiana soil, but its eyes fixed on the horizon. It should be one that cares about individual cases, big and small. And always has in its heart what we can do together, tomorrow, to be better servants than we are today.

That’s more true this afternoon than it was a year ago, and Judge Diane Schneider of Lake County best articulated a central reason why. Speaking to a roomful of judges, she said: “A perpetual cloud hung over us year after year, a cloud labeled ‘compensation.’ That cloud finally has been lifted. This is a time when we should move ahead to better things.” She was confirming the response of the state’s judges and prosecutors to your action in adjusting salaries during the last session. I stand for the proposition that it will be in Indiana’s best interests to make similar adjustments in the other two branches of government.

As for the judiciary, I stand with Judge Schneider in believing that this is a moment when the judiciary must strive to do better than ever at helping Indiana be a safer, prosperous, and decent place to live. I promise you that’s what will happen.